

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 31, 2024

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 9:54 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice-Chairperson
CARL BLAKE, Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

RON BARRON
SHEPARD BEAMON
MAXINE BROWN-ROBERTS
CRYSTAL MYERS
KAREN THOMAS

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OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
CARISSA DEMARE, ESQ.
MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on July 31, 2024.

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P-R-O-C-E-E-D-I-N-G-S

9:41 a.m.

CHAIRPERSON HILL: Okay, great. I'm going to let you, Ms. Mehlert, call the next case when you get a chance and then I'm going to ask my Board a couple of questions while the Applicant is coming on.

MS. MEHLERT: Sure, next is in the Board's Hearing Session. It's Application Number 21010 of NL 1271 5th Street, LLC. As amended, this is a self-certified application pursuant to Subtitle X, Section 901.2. For Special Exceptions, under Subtitle C, Section 703.2, from the minimum parking requirements of Subtitle C, Section 701.5; under Subtitle C, Section 909.2, from the loading requirements of Subtitle C, Section 901.1; under Subtitle C, Section 1501.1(d) to allow an eating or drinking establishment located within penthouse habitable space; and, under Subtitle G, Sections 207.14 and 5200 from the rear yard requirements of Subtitle G, Section 207.9.

This is for a new seven-story building with basement, penthouse and roof deck mixed-use as a hotel with around 130 hotel rooms with an eating and drinking establishment and ground-floor retail and/or service uses.

The project is located at 1271 5th Street, NE, Square 3591, Lot 3 and is currently in the PDR-1 zone, but will note that the Zoning Commission took the action to

1 approve a map amendment to change the zone to MU-8B on July
2 8th.

3 The hearing was originally scheduled for December
4 13, 2023 and has been postponed twice at the Applicant's
5 request.

6 CHAIRPERSON HILL: Okay, great. Could the
7 Applicant, if they can hear me, please introduce themselves
8 for the record?

9 MR. UTZ: Good morning, Chairman Hill. I'm Jeff
10 Utz with Goulston & Storrs. I'm the representative of the
11 Applicant.

12 CHAIRPERSON HILL: Okay, great. Sorry, go ahead,
13 Mr. Utz.

14 MR. UTZ: I was going to just introduce the other
15 folks if you wanted me to as well at this time.

16 CHAIRPERSON HILL: Go ahead.

17 MR. UTZ: Sure, also with us is Reynolds Allen
18 representative of the Applicant itself, EDENS, and Daniel
19 Solomon of Gorove Slade, our only proffered expert in
20 transportation planning.

21 CHAIRPERSON HILL: Okay, thank you. All right,
22 Mr. Utz, I'm a little bit unclear as to whether or not we
23 should be hearing this right now. I'm going to let you
24 answer my question, but the question is, and this is
25 something for my Board to consider, because I'm just really

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1 not sure what my Board will think, but this has been
2 postponed because there were some things going through, I
3 guess, the Zoning Commission that you all were trying to get
4 done. One of which is that now this is going to be
5 considered under MU-8, but it currently is not MU-8, and it
6 won't be MU-8 until, I think, sometime in November.

7 I'm going to let you, Mr. Utz, explain why you
8 think we should be hearing this now. The only thing that I
9 can think of and then I'll turn it over to my Board is that
10 we're all here and we can hear it, but we wouldn't be able
11 to vote on it. But, it's not something that -- it would be
12 setting an odd precedent in that we haven't heard something
13 before in a way that wasn't really before us yet, if that
14 made sense. So, Mr. Utz, I'll let you explain why you think
15 we should be hearing this now rather than in November. Then
16 I will let my Board decide what they think.

17 MR. UTZ: Sure, thank you, Chairman Hill. In this
18 case, this is a unique case. It did come in, the initial
19 application was filed when the project was going to proceed
20 as a PDR-1 project, but in the interim, there was zoning map
21 amendment filed to go to MU-8, as you mentioned.

22 In this case, we did get proposed action approval
23 from the Zoning Commission earlier this month, so it has gone
24 through the lion's share of the proceedings, the review of
25 the map amendment itself. It's been receiving agency support

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1 all along. It's been receiving full-throated community
2 support as well as has the BZA application itself. Based on
3 having those things in place, we think that there is an
4 ability to go forward on the relief here. In this case, this
5 is related to a project that is time sensitive in its
6 consideration, so this is kind of a situation where the
7 sooner the Applicant can line up its entitlements, the more
8 likely they will be to find success on their project, which
9 is why we're trying to line up the milestones of the review
10 the way that we are, including today's hearing.

11 CHAIRPERSON HILL: Can you explain that a little
12 bit more? Because of financing or something, I don't
13 understand. Can you tell me what the time sensitive nature
14 of it is?

15 MR. UTZ: Yes, so there are -- and I would also,
16 Reynolds, if you want to jump in on this piece of it.

17 MR. ALLEN: Reynolds Allen, with EDENS, the owner
18 of the property. I appreciate consideration for hearing this
19 today. We are trying to move things forward with parties
20 that we are working to partner with to develop this project.
21 It's taken us quite a while to get here due to just some, I
22 think, some curves in the road along the way, but as Mr. Utz
23 spoke to, support of the project has been strong throughout
24 from our initial meetings with OP and DDOT, not to put words
25 in their mouth. However, we started those conversations

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1 about 18 months ago and so we've been continuing to try to
2 keep our interested partners interested and, in doing so,
3 this is a big hurdle trying to make sure that they feel
4 comfortable with the project and moving forward. We're
5 hopeful that we can be heard today to get both the approvals
6 that we need here taken care of this morning as well as
7 finishing things up with the map amendment that is, as Jeff
8 mentioned, current with editing, but received initial
9 approvals. Does that help answer the question?

10 CHAIRPERSON HILL: Yeah, yeah. I guess I can
11 understand what you're saying and that trying to get
12 everything kind of lined up so that you can hopefully move
13 forward. I guess I'm leaning more towards saying yes right
14 now, but knowing that we wouldn't be able to vote on this,
15 Mr. Utz, because we'd have to wait until the Zoning
16 Commission has done what they needed to do, right? So, you'd
17 be back before us again where we might even have a continued
18 hearing where, if we had any additional questions or there
19 was a review, after having a chance to kind of really see
20 more or less any more information that the Board might need
21 before making a decision. So, I don't know if you're saving
22 a tremendous amount of time is what I'm trying to get at, but
23 I guess you could then show you investors, or I don't know,
24 that at least you've gone through the BZA and that it seems
25 like it might be okay. I guess I'd be okay with hearing it

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1 because we're all here now and then at a later time, doing
2 maybe a continued hearing or just a vote, but I'm going to
3 start if I could with the Zoning Commissioner and see, Vice
4 Chair Miller, what you think of this since it's kind of more
5 in your lap a little bit.

6 MR. MILLER: Thank you, Mr. Chairman. I would be
7 inclined to agree with the direction that you've outlined to
8 have the hearing today on the assumption that the Zoning
9 Commission might take final action on the map amendment, but
10 not take any action today and have the future proceedings
11 after that order becomes effective in the zoning case.

12 CHAIRPERSON HILL: Okay, thanks, Commissioner
13 Miller. Vice Chair John?

14 VICE CHAIRPERSON JOHN: Mr. Chairman, I would like
15 to take a little different approach because we don't have an
16 existing map amendment now and so there is no regulation to
17 hear the case under, so, anyway we don't even have
18 jurisdiction. I don't think we can go ahead, and this would
19 be a departure from what we've done in the past when we have
20 pending changes at the Zoning Commission. The case would
21 have to be continued anyway even if we heard it today. I
22 believe under the regulations, if the Applicant were to apply
23 for a permit now before the change is effective, then the
24 permit application would have to be submitted under the
25 existing regulation.

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1 CHAIRPERSON HILL: Okay. Mr. Blake?

2 MEMBER BLAKE: I'll agree with Vice Chair John in
3 terms of timing of the review.

4 CHAIRPERSON HILL: Okay, I guess, Mr. Utz, I'm
5 sorry for your client in this regard that -- and I think
6 hopefully Mr. Allen, because I'm going to go with my fellow
7 board members that I'm with every single time, which is that
8 we're going to wait until -- we'll put you on as soon as this
9 thing is something that we can hear and that for your
10 investors and for yourself or whatever the case may be, I
11 mean, you've gone through the Zoning Commission, you've gone
12 through the ANC already, you've gone through the Office of
13 Planning already, so you can continue to try to market this
14 or whatever you need to do to make people feel more
15 comfortable about it. It wouldn't be something that you
16 would be getting a decision from us today anyway and so you'd
17 be back before us again, spending your lawyers' time to come
18 back here and do the same thing possibly in November. I'll
19 let you take one last comment if you want, but it looks like
20 you're going to get outvoted here.

21 MR. ALLEN: I appreciate that, yeah, I understand
22 everyone's perspective on it and appreciate the
23 consideration. It would be helpful for us to at least be
24 able to present and hear any feedback and be able to come
25 back with any further -- to be able to address anything that

1 you feel like wasn't addressed properly and hopefully coming
2 out of this conversation we'll be able to relay to our
3 partners that it does seem like there is a good path forward
4 on the project, but I understand.

5 MR. UTZ: I would just add to that, I do think
6 that we would say obviously that this is appropriately before
7 the Board right now. The relief that we're requesting is
8 very similar, if not exactly the same, as the relief that
9 would have been requested under the PDR-1 zoning for parking,
10 for loading, for the roof structure use and for the rear
11 yard. So, the elements that we're asking for are very
12 similar to actually narrow down from the elements that we
13 were asking for under the PDR. There was a variance element
14 that was in that application that was removed, but otherwise
15 the relief is very similar. I would say that we are willing
16 to take the risk that the zoning wouldn't work out and we
17 would have to come back or pivot the project, so we would
18 absolutely appreciate the opportunity to be heard today.

19 We understand what you're saying though, so we
20 will kind of abide, obviously by your determination, but
21 while we're here and for the sake of keeping the project on
22 the rails, I think we would be willing to take that kind of
23 risk such that it is, which we think is hopefully relatively
24 minimal if things change down the line on the zoning front.

25 CHAIRPERSON HILL: Okay, so I don't know about my

1 fellow board members, I love the area. The area is great.
2 It's developed fantastically. I didn't know if Union Market
3 was even going to survive back in the day, right. It'd be
4 great if we could hear it now. I know that my fellow board
5 members are more concerned about is the precedent that we
6 might be setting, so that we'd have to argue this again with
7 somebody else if they're before us, that this is a more
8 delicate situation. Like, this seems relatively
9 straightforward, right or could be and so I don't know, but
10 anyway, I'll turn around -- did Mr. Utz, doing his job in
11 pleading one more thing, change anybody's mind? If so,
12 please raise your hand. Okay, Mr. Utz, nobody's mind was
13 changed. I'll go ahead and see now how to schedule you. Ms.
14 Mehlert, I don't know how to schedule them, right?

15 MS. MEHLERT: Right, so I believe the Zoning
16 Commission is taking final action on this on September 12,
17 but the map amendment wouldn't be effective obviously until
18 the order is published in the Register, which could take some
19 time after that vote.

20 CHAIRPERSON HILL: I see you, Mr. Blake. Go
21 ahead.

22 MEMBER BLAKE: I think we could review the case
23 as soon as the actual action is taken and it wouldn't be
24 effective until after the time elapses. I think we could
25 actually take it up once the vote has been completed. I

1 think we've done that in the past.

2 CHAIRPERSON HILL: I'm getting a shake from Vice
3 Chair John, no, so I don't want to come back here and the
4 same vote happens.

5 VICE CHAIRPERSON JOHN: I don't remember that,
6 with respect, Mr. Blake, but I know we've had cases with this
7 request and we have not heard them recently. I appreciate
8 the Applicant's position, but again, Mr. Utz, you're asking
9 us for an advisory opinion really, which the Board doesn't
10 do. Now, looking at the application, which I reviewed last
11 night, you have several approvals, so I don't see a great
12 risk by not going forward today. That's all I'll say. It's
13 a great project. It looks good. I'd like to go to that
14 hotel. (Laughter.)

15 CHAIRPERSON HILL: So, Mr. Utz, I love having
16 smart people that are smarter than me honestly, we apparently
17 don't do advisory things. When do you think, Mr. Utz, this
18 might be done and back before us? Take a guess.

19 MR. UTZ: So, the final action is in February --
20 I'm sorry, jeez, no, I meant to say September and somehow I
21 said February. It is in mid-September that this final
22 action, so it already had proposed action earlier this month.
23 Final action is mid-September on the 12th, I believe. It is
24 a bit of an unknown about when the order would come out if
25 that is going to be the milestone.

1 We would definitely prefer to not wait until the
2 order comes out, because that does subject this project to
3 even more of an open-ended unknown with the partners that Mr.
4 Allen is referring to, so we would like to proceed after
5 final action on the 12th, if we could come back on a date
6 that's perhaps late in September, that would clear that date
7 for certain. I can't answer when the order would be,
8 probably late 2024 to early 2025, in that general range of
9 time.

10 CHAIRPERSON HILL: Right, okay.

11 VICE CHAIRPERSON JOHN: So, Mr. Utz, how could the
12 Board -- this is what I don't understand. How could this
13 Board's order be effective if the map amendment is not
14 effective?

15 MR. UTZ: It would not be useable until the order
16 is issued for the map amendment. We essentially need both
17 before we could move forward with the permit, for a building
18 permit, for the project.

19 VICE CHAIRPERSON JOHN: Right.

20 MR. UTZ: We're kind of subject to both concepts
21 needing to be in place before it can proceed, so for the sake
22 of the building permit, it is the same. You know this would
23 be binding on the property, binding on the Applicant if we
24 were so lucky as to be approved, it would be binding on us
25 and if we needed to change, if the zoning map amendment was

1 not approved during final action, we would need to come back.
2 We would need to modify, essentially reverse the application
3 to be what it was initially and come back later. Hopefully
4 that doesn't happen.

5 CHAIRPERSON HILL: When is date in September
6 again, Ms. Mehlert?

7 MS. MEHLERT: September 12 is when it's back
8 before the Zoning Commission.

9 CHAIRPERSON HILL: Okay, so then the decision is
10 made on September 12, is that correct?

11 MR. UTZ: Yes, it's up for final action vote on
12 the 12th of September.

13 CHAIRPERSON HILL: Okay and so then, Ms. John, I'm
14 not trying to push anything, I'm just curious. We came back
15 and then ask them -- they can come back and ask the same
16 question again after this in September sometime and then we
17 can decide, I'm just trying to set a date, otherwise I have
18 to figure out, you know --

19 VICE CHAIRPERSON JOHN: Mr. Chairman, I'm going
20 to defer to you. I think we've been back and forth on this
21 issue about deciding cases before the record is complete, so
22 I'm going to defer to you in this case.

23 CHAIRPERSON HILL: Okay. If you're deferring to
24 me in this case -- oh, Mr. Blake?

25 MEMBER BLAKE: And, again, I'm saying the same

1 thing I said last time, but I am comfortable hearing the case
2 after the final decision on September 12, but we would not
3 be able to take a final vote on it at that time, and it would
4 not be effective, until after the amendment. But, I'm
5 comfortable taking a vote, I mean hearing it after the final
6 vote has been taken. I mean the final action has been taken.

7 CHAIRPERSON HILL: All right, Mr. Blake has given
8 me some political cover, so I appreciate very much -- anyway,
9 I don't usually go against Vice Chair John, but in this
10 particular case since she is letting me defer, we'll come
11 back on, what's the 18th or the 25th of September looking
12 like, Ms. Mehlert?

13 MS. MEHLERT: Well, sir, those are both very busy
14 days for the Board.

15 CHAIRPERSON HILL: Okay, what's not a very busy
16 day after those days?

17 MS. MEHLERT: October 2nd is a little bit better.

18 CHAIRPERSON HILL: Okay, let's come back October
19 2nd. Okay? Mr. Utz, we'll come back October 2nd and I guess
20 if Mr. Blake and I still feel the same way I feel, then maybe
21 we'll hear the case, but if we change our minds, Mr. Allen,
22 then you still might not hear the case, I'm just letting you
23 know. Okay? Fair?

24 MR. ALLEN: Fair, I appreciate the opportunity.
25 I hope that we will be able to discuss it on October 2nd.

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1 If we can, then hopefully coming out of that I can give
2 assurances to our partners and with that, we may be able to
3 proceed forward all movement, so that would be great. Thank
4 you.

5 CHAIRPERSON HILL: Okay, great. If your partners,
6 by the way, Mr. Allen, aren't insured yet, you should find
7 some new partners, okay?

8 MR. ALLEN: Not insured, assured, assured.

9 CHAIRPERSON HILL: Assured, yeah, I said assured
10 also. I said assured.

11 MR. ALLEN: Okay.

12 CHAIRPERSON HILL: Yeah, they're a little bit
13 scared then, they shouldn't be involved in this big a
14 project. Okay, Mr. Utz, are we good?

15 MR. UTZ: We're good. Thank you. We'll see you
16 in October. Thank you so much.

17 CHAIRPERSON HILL: Okay, great. Thank you. Bye-
18 bye.

19 MR. UTZ: Bye.

20 CHAIRPERSON HILL: Okay, Ms. Mehlert, you can call
21 our next one, please.

22 MS. MEHLERT: Next is Application Number 20951-A
23 of Round Trip Properties, LLC. This is a request pursuant
24 to Subtitle Y, Section 704 for a modification of significance
25 of the order issued on October 11, 2023, in Application

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1 Number 20951 to approve an area variance pursuant to Subtitle
2 X, Section 1002 from the street frontage requirements of
3 Subtitle C, Section 303.4 and to reduce the dwelling units
4 from four to three and make internal modifications to the
5 cellar and first floor. This is for a third-story with roof
6 deck and three-story with cellar rear addition to an existing
7 two-story attached principal dwelling and conversion to a
8 three-unit apartment house including one unit and a new two-
9 story accessory structure in the required rear yard.

10 The project is located in the RF-1 zone at 3646
11 13th Street, NW, Square 2828, Lot 174.

12 CHAIRPERSON HILL: Great, thank you. If the
13 Applicant can hear me, if they could please introduce
14 themselves for the record. I don't know if it's Mr. Terrell.

15 MR. LEVY: Sorry, can you hear me now?

16 CHAIRPERSON HILL: Yeah, can you hear me?

17 MR. LEVY: Okay, got it. Yes, I can hear you.
18 Sorry, I also was having some issues earlier and so I ended
19 up kind of connecting on my phone and computer. This is
20 Benjamin Levy. I'm the managing member of Round Trip
21 Properties. Thank you, Chairman, Vice Chair and Board
22 Members today for having us. Do you want me to give a little
23 background on this?

24 CHAIRPERSON HILL: Yeah, Mr. Levy, give us a
25 second. I'm going to go ahead and let you explain why you

1 believe that you're meeting the criteria for us to grant the
2 relief requested. I'm going to put 15 minutes on the clock
3 there and you can begin whenever you like.

4 MR. LEVY: Okay, great. Yes, this is the second
5 time we're bringing this case to you guys. It's a
6 modification of significance. We had five reliefs before,
7 they were approved. This is a three-unit apartment house
8 that was a single-family home. We are asking for essentially
9 this one relief today and it's a relief to Subtitle C, 303.4
10 and it is a code section you might not know much about
11 because I don't believe we found any time where you guys have
12 reviewed this or, I guess, made a vote on this section.

13 It's about a 30-foot road frontage minimum for the
14 conversion of new lots from single family or flat in RF-1 to
15 an apartment house. Our property has 21 feet of road
16 frontage.

17 We came here before and this project was approved
18 to switch to an apartment house and when we went to the
19 Department of Buildings, they identified that they think this
20 code section applies and could restrict us. There's two
21 reasons that I'd like to bring up for you all. Kind of like
22 a broad brush, higher level concepts. One is the traditional
23 area variance relief is, as this is a pre-1958 house, there
24 would be a practical difficulty to widen the street's
25 frontage despite its having 46 feet width in its rear lot,

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1 in the rear part of its lot where the third unit sits. So
2 that would be kind of a more traditional version of what
3 you'd hear for the area variance for this type of situation
4 and it being a practical difficulty in that we'd have to
5 actually acquire some land alongside in order to widen our
6 property to 30 feet of road frontage.

7 The second component of this is that there's no
8 substantial detriment to the zone as many, many houses have
9 been approved to convert to apartment houses that have less
10 than 30 feet of road frontage. In fact, it's probably way
11 more common that you have lots with under 30 feet of road
12 frontage that are approved in RF-1 to convert to apartment
13 houses.

14 The second comment that I would like to make to
15 you guys outside of that more traditional area variance
16 relief background is that this is an extremely rare
17 application of a standard by the Department of Buildings.
18 To our analysis, it has never been applied ever, that we
19 could find, even though it's been around for about 60 years,
20 this particular code section. If you actually look at it
21 through the plain language of the law, this particular code
22 section and I'm going to read it to you guys because it's
23 just one sentence here. Each new lot being created to be
24 used and occupied by an apartment house shall have a street
25 frontage measured along the street line a distance not less

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1 than 30 feet.

2 The key thing that we want to draw your attention
3 to is the words each new lot being created to be used. Now,
4 since our lot itself that we brought to you the first time
5 around was a taxed lot that already encompassed the exact --
6 a single lot that encompassed the exact shape of our property
7 that we still have now, even though it had two record lots
8 prior, the Department of Buildings is now applying that this
9 word each new lot should be interpreted to mean each new
10 record lot. We believe that this is sort of an extraordinary
11 application and rare application of this code section and
12 therefore, that should be taken into your consideration.
13 Sorry, this is obviously very detailed stuff here and not the
14 most fun, but I just, again, want to thank you all for the
15 opportunity and, again, we think that this is much in line
16 with the spirit of the zoning code to allow this particular
17 property under these circumstances to be converted to a
18 three-unit apartment house.

19 CHAIRPERSON HILL: Okay, thanks, Mr. Levy. Before
20 I turn to my Board, can we hear from the Office of Planning?

21 MS. THOMAS: Good morning, Mr. Chair. Karen
22 Thomas for the Office of Planning. Thank you. We are
23 recommending approval of this application, including the
24 variance relief that the Zoning Administrator requested of
25 the Applicant during his permit process. The lot's street

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1 frontage is a physical feature of the lot that cannot be
2 reasonably changed and in this situation, we don't believe
3 that relief will change the substantial decisions that you've
4 made in the initial application. So, we determined that it
5 is without detriment to the public good and the zoning
6 regulations. Again, this is a physical feature of the lot
7 that cannot be reasonably changed by the Applicant in this
8 instance, so with that, I will rest on the record of our
9 report. Thank you.

10 CHAIRPERSON HILL: Thank you, Ms. Thomas. Let's
11 see, does the Board have any questions of the Applicant
12 and/or the Office of Planning? Okay, before you go, Ms.
13 Thomas, are you back with us again today or this is it for
14 you?

15 MS. THOMAS: This is it for me.

16 CHAIRPERSON HILL: Okay, you have a nice August.

17 MS. THOMAS: Thank you, thank you, you do the
18 same.

19 CHAIRPERSON HILL: Okay.

20 MS. THOMAS: And all the board members.

21 CHAIRPERSON HILL: Thank you.

22 MS. THOMAS: Thank you.

23 CHAIRPERSON HILL: Mr. Young, is there anyone here
24 wishing to speak?

25 MR. YOUNG: We do not.

1 CHAIRPERSON HILL: Okay, all right. Does the
2 Board have any final questions of the Applicant?

3 MR. MILLER: Question, Mr. Chairman.

4 CHAIRPERSON HILL: Sure, go ahead Vice Chair
5 Miller.

6 MR. MILLER: Not related to the variance for the
7 30-foot street frontage, which has existed there since the
8 lot, since it was created, and was the same frontage that the
9 Board previously reviewed in that case, even though it was
10 a taxed lot versus a record lot. So, it's not related to
11 that, but it's related to the change that you're making to
12 the number of units. If you're going from four units to
13 three units, can you just give an explanation as to why
14 you're doing that?

15 MR. LEVY: Of course, yes, thank you. We met you
16 all in, I want to say like September/October time frame and
17 at that time, we had a building permit going in for this
18 property. We got approval from you at that time,
19 October/November time frame, and we were not able to get the
20 building permit. I believe it was at the sixth review by the
21 Office of Zoning, they found this and identified this for the
22 first time, this particular issue with zoning, although the
23 first five times they had not brought it up.

24 So, basically we spent some time going back and
25 forth with them and we determined that we weren't going to

1 get the building permit. We had to come back and so we were
2 going to lose several more months on top of what was
3 approximately a three or four month at that time, this
4 building permit is now about, you could probably say seven
5 to eight months later than we were expecting originally.

6 What we did was -- okay how do I explain this?
7 So, right now, we went ahead with getting another permit to
8 do this as a two-unit building, a two-unit flat. We were
9 allowed to do that and we needed to get moving with our
10 construction because of our cost of capital to carry this
11 house. We needed to protect ourselves in the event that we
12 did not receive an approval today so we went ahead and built
13 the main house as a single family unit and then the accessory
14 structure as a second unit.

15 In the event that we don't get this permit today,
16 we needed to have something that we could get approved
17 essentially as a two-unit building and the way that the
18 building is structured and the way that the original four-
19 unit thing was designed, it only made sense to go ahead and
20 build this as a two-unit that we could then convert into a
21 third unit by essentially splitting the upper two floors and
22 the lower two floors of the main house into two units. It
23 wouldn't almost really make sense to build four air
24 conditioning units, four sets of electrical, four sets of
25 plumbing, four sets of everything would add so much cost.

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1 In the event that we were not able to get this approval to
2 do the apartment house, we kind of needed to slim down the
3 scope so that we could keep building and still not take too
4 much of a loss or take a loss on this project in both
5 situations, the case that we got approval or we did not get
6 approval. Am I making myself clear, Mr. Miller? That's it,
7 yeah. Does that make sense? I see you're kind of looking
8 like you're pondering.

9 MR. MILLER: So it was cost considerations?

10 MR. LEVY: It was cost considerations.
11 Essentially right now, we are building this property. We're
12 installing the rough-in and we've already done underpinning
13 and we've done framing and we've done the additions. We are
14 incurring a huge amount of costs. We're somewhat taking a
15 risk on this right now that we'll end up with a three-unit
16 or a four-unit approval through this area variance.

17 In order to kind of address our cost risk, we
18 tried to make this kind of like two options. You know, the
19 option hopefully that would work financially, the option that
20 you don't approve and we end up with two units and the option
21 that you do approve and we end up with an apartment house and
22 try to make it kind of very simple to bounce back and forth
23 between those to cover both scenarios.

24 MR. MILLER: Was one of the cost considerations
25 that that fourth unit might have -- which would be a

1 conversion, I think, would have to be an IZ unit?

2 MR. LEVY: No, that's not really it. The issue
3 is that right now we're installing rough-ins which is all
4 these air conditioning and heating units and the idea that
5 we would install -- so, essentially the modification to
6 convert either by kind of like a four-unit style design into
7 two units would be a lot of waste, wasted time to make that
8 transition or vice versa, building a two-unit style and then
9 converting it right after we finish building to a four-unit.
10 There would be a lot of waste and re-doing and costs in order
11 to switch back in order to make that transition after this
12 date of approval. Does that make sense?

13 MR. MILLER: Somewhat. Thank you. I don't need
14 any further explanation.

15 VICE CHAIRPERSON JOHN: I had a question. I was
16 wondering why Commissioner Miller asked that question and now
17 hearing your answer, so if you got approval for a four-unit
18 building, could you build it economically now?

19 MR. LEVY: We would have been able to build it
20 economically before.

21 VICE CHAIRPERSON JOHN: I see, okay.

22 MR. LEVY: Thank you for the question, Ms. John.
23 Now the idea of essentially right now we are building --
24 we've already lost about seven months of time on the building
25 permit because of this back and forth and the fact that it

1 took so long for them to bring this forward to us as an
2 issue. But, now, yes, it would not be reasonable for us to
3 do that because we'd be essentially building a two-unit
4 building and then having to like convert it into a four-unit
5 building.

6 VICE CHAIRPERSON JOHN: Okay.

7 MR. LEVY: But it makes a bit more sense and it's
8 a bit simpler to make that transition to convert it from a
9 two-unit building to a three-unit building with the way that
10 it ends up being as it had been set up.

11 VICE CHAIRPERSON JOHN: Okay, thank you.

12 MR. LEVY: Yeah.

13 CHAIRPERSON HILL: Okay, anyone else? Okay, I'm
14 going to close the hearing and the record. Mr. Levy, it
15 sounds like a long journey, good luck.

16 MR. LEVY: Thank you and I hope you all have a
17 great month of August if you're taking vacation.

18 CHAIRPERSON HILL: Thank you.

19 VICE CHAIRPERSON JOHN: Thank you.

20 CHAIRPERSON HILL: Okay, when I hear stories like
21 that I just get so disappointed. I'm going to agree with the
22 argument that the Applicant has put forward as to how they're
23 meeting the criteria for us to grant this particular relief.
24 I will also agree with the Office of Planning's analysis, as
25 I read the record, and I would agree with their analysis for

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1 the different levels of relief that are being requested and
2 also note that the ANC is in support of this particular
3 application. I'm going to be voting in favor of this
4 application. Mr. Blake, do you have anything you'd like to
5 add?

6 MEMBER BLAKE: Voting in favor of the application
7 as well, and I do think the Applicant has met the burden of
8 proof for the area variance requested. The physical
9 condition of the street frontage without the ability to add
10 street frontage creates an acceptable condition of the lot
11 resulting in a practical difficulty.

12 I also believe that we determined in a prior case
13 that this essentially simpler project actually scaled down
14 would not be detrimental to the neighboring properties and
15 in harmony with the zoning regulations. So, that meets the
16 prongs of the test and it's consistent with the analysis
17 provided by the Office of Planning. I would give great
18 weight to the Office of Planning's recommendation for
19 approval and also note that ANC 1A is in support and I give
20 great weight to that. No issues or concerns were indicated.
21 I'll be voting in favor of the application as well.

22 CHAIRPERSON HILL: Thank you, Mr. Blake.
23 Commissioner Miller?

24 MR. MILLER: Thank you, I appreciate all the
25 comments my colleagues and particularly Board Member Blake's

1 analysis that he just gave.

2 CHAIRPERSON HILL: Thank you. Vice Chair John?

3 VICE CHAIRPERSON JOHN: Yes, I have nothing to
4 add. I'm in support of the application.

5 CHAIRPERSON HILL: Great, thank you. I'm going
6 to make a motion to approve Application Number 20951-A as
7 caption read by the Secretary and ask for a second. Ms.
8 John?

9 VICE CHAIRPERSON JOHN: Second.

10 CHAIRPERSON HILL: Motion made and seconded. Ms.
11 Mehlert, if you could take a roll call.

12 MS. MEHLERT: -- this motion to approve the
13 application. Chairman Hill?

14 CHAIRPERSON HILL: Yes.

15 MS. MEHLERT: Vice Chair John?

16 VICE CHAIRPERSON JOHN: Yes.

17 MS. MEHLERT: Board Member Blake?

18 MEMBER BLAKE: Yes.

19 MS. MEHLERT: Vice Chair Miller?

20 MR. MILLER: Yes.

21 MS. MEHLERT: Staff will record the vote is 4 to
22 0 to 1 to approve Application 20951-A on the motion made by
23 Chairman Hill and seconded by Vice Chair John with one board
24 member not participating.

25 CHAIRPERSON HILL: Great, thank you. Hey you

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1 guys, can we just take a quick break?

2 VICE CHAIRPERSON JOHN: Thank you.

3 CHAIRPERSON HILL: Come back in 10 minutes or so,
4 15 minutes? Thank you.

5 VICE CHAIRPERSON JOHN: 15?

6 CHAIRPERSON HILL: 15, 15 please.

7 VICE CHAIRPERSON JOHN: Thank you.

8 (Whereupon, the above-entitled matter went off the
9 record at 10:36 a.m. and resumed at 10:57 a.m.)

10 CHAIRPERSON HILL: All right, Ms. Mehlert.

11 MS. MEHLERT: The Board is back from a quick
12 break. And the next case on the Board's hearing session is
13 Application No. 21155 of John Schneider. This is a self-
14 certified application pursuant to Subtitle X, Section 901.2,
15 for a special exception under Subtitle F, Section 5201, and
16 the lot occupancy requirements of Subtitle F, Section 210.1.

17 This is for a two-story rear deck and stair
18 addition to an existing three-story attached building. This
19 is an apartment house. It is located in the RA-2 zone at
20 1752 U Street, N.W., Square 151, Lot 217.

21 CHAIRPERSON HILL: Sorry. I was on mute.

22 If the Applicant can hear me, if they could please
23 introduce themselves for the record.

24 MR. HEISEY: Good morning, Mr. Chairman. Joel
25 Heisey, agent architect for the owner.

1 CHAIRPERSON HILL: Okay, great.

2 Mr. Heisey, I've been reviewing some things with
3 the Office of Zoning Legal Division, as well as my
4 colleagues, and this might not be here before us properly
5 yet.

6 I'm going to go ahead and see. You might be able
7 to give us your testimony.

8 But can I, can I hear from the Office of Planning
9 real quick as to how this is falling within C305? Can the
10 Office of Planning hear me?

11 VICE CHAIRPERSON JOHN: Which case are we --

12 CHAIRPERSON HILL: Am I on the wrong case?

13 VICE CHAIRPERSON JOHN: Yes. I think we're in
14 21155 now.

15 MR. HEISEY: Yeah. This is 1752 U Street. It's
16 a lot occupancy special exemption for a rear deck.

17 CHAIRPERSON HILL: Okay, I'm sorry.

18 MR. HEISEY: Yeah, please, don't throw me like
19 that, Mr. Chair.

20 CHAIRPERSON HILL: That's all right. That's all
21 right, Mr. Heisey.

22 Well, then now whoever is the next case knows
23 there's been an issue.

24 MR. HEISEY: Office of Planning did raise an issue
25 that this is on the borderline of two ANCs that I wasn't

1 aware of until the Secretary of the Board notified me on
2 Thursday. But I think I can address that.

3 CHAIRPERSON HILL: Okay. Mr. Heisey, Ms. Mehlert,
4 can you tell me the number again, real quick?

5 MS. MEHLERT: It's 21155. This is the rear deck.

6 CHAIRPERSON HILL: Okay. Mr. Heisey, why don't
7 you go ahead and walk us through your client's application
8 and why you believe you're meeting the criteria for us to
9 grant this relief. And I'm going to listen to you while I
10 find my file.

11 MR. HEISEY: Okay. Thank you, Mr. Chairman, Board
12 members.

13 I know you review the materials provided, so I
14 have nothing additional to add. But I'll walk through the
15 exhibits that are here.

16 Like I kind of mentioned, this is a lot occupancy
17 request for a special exception for a rear two-story deck at
18 1752 U Street.

19 The photos are on Exhibit No. 5. They show you
20 the current location.

21 And the second photo is my second grade graphics,
22 second grader graphics of approximately what the new deck
23 would look like. This is in -- very consistent with
24 everything else on the block. If you look at the other
25 photos, almost every other house on the block has at least

1 a single-story deck, and a lot have two-story decks as well.

2 This backs up against Willard Place to the rear
3 on the other side of the alley.

4 The plans are in Exhibit No. 6, very simple,
5 straightforward. It will stay in line with the existing
6 building, extend back about 7 feet 4 inches. That leaves a
7 20-foot rear yard setback, as required.

8 So this is the lot coverage then will also be at
9 68 percent. Just wanted to make sure I got that number
10 right.

11 The ANC issue that I mentioned, the ANC supported
12 this application. There's also their supporting letter in
13 the, in the record. It was brought to my attention by the
14 BZA Secretary last week that this does border another ANC
15 that Willard Place is in. Wasn't aware of that ANC, nor OP
16 mentioned that.

17 However, the two most affected lots, which are
18 directly behind this property, have submitted letters in
19 support of the project. And those are in the record. They
20 are -- let me, I can give you exhibit numbers. Twenty and
21 -- 21 and 22. So, those are the directly affected neighbors
22 to the rear, and they are in support of the project.

23 There is a letter of opposition in the record.
24 This is from the adjoining condominium property. These are
25 mostly rentals. The objection deals with a previous water

1 issue from several years ago. I'm not familiar with the
2 situations or what has happened there, but the complaint
3 seems to be worried about more building construction issues
4 than zoning issues.

5 And then also further to that, the plat on Exhibit
6 No. 2 shows that the closest that any building is going to
7 occur to that property is 3 feet away. And even that would
8 just be a cylindrical pile footing at the outer edge of the
9 deck.

10 So, I don't believe there will be any construction
11 interference whatsoever. And the zoning, we meet the side
12 setback requirements that are required for zoning.

13 Office of Planning has also recommended support
14 for this project.

15 So, I will leave the rest as stated in the record.
16 And if Board members have any questions, I'd be glad to try
17 to answer them.

18 Thank you.

19 CHAIRPERSON HILL: Great. Thanks, Mr. Heisey.

20 I found my files.

21 The letters of support are, again, from, did you
22 say they are behind or?

23 MR. HEISEY: They are across the alley.

24 CHAIRPERSON HILL: Okay. They're across the
25 alley.

1 MR. HEISEY: They're the ones directly across the
2 alley.

3 Actually, if you go to photos -- let me see if I
4 can find my photos here now. They are -- I need to find 45
5 and 55.

6 CHAIRPERSON HILL: Okay. That's okay.

7 All right. Before I turn to my fellow Board
8 members, can I hear form the Office of Planning?

9 MR. BARRON: Mr. Chair and fellow commissioners,
10 for the record, my name is Ron Barron, developmental use
11 specialist with the District Office of Planning.

12 Office of Planning recommends approval of the
13 requested special exception to the lot occupancy requirements
14 of Subtitle F. Approval would not be inconsistent with the
15 general purpose and intent of the RA-2 zone.

16 The Office of Planning is content to rest on our
17 report in the record at Exhibit 23.

18 And I am available to answer any questions you may
19 have. Thank you.

20 CHAIRPERSON HILL: Okay. Do my fellow Board
21 members have any questions for the Office of Planning or the
22 Applicant?

23 Okay. Mr. Young, is there anyone here wishing to
24 speak?

25 MR. YOUNG: Yeah. We have one witness signed up.

1 CHAIRPERSON HILL: Okay, great.

2 Can you bring that witness forward, please.

3 I apologize. Is it Justin? Okay, great.

4 Could you please introduce yourself for the
5 record.

6 MR. LAM: Good morning, members of the Board. My
7 name is Justin Lam. And I'm commenting as a member of the
8 public although, also, as someone who lives in the
9 neighboring condo building that was just mentioned.

10 CHAIRPERSON HILL: Got it.

11 Okay, Mr. Lam, you'll have 3 minutes to give your
12 testimony. And you can begin whenever you like.

13 MR. LAM: Thank you.

14 Thank you again for your consideration. And thank
15 you, Joel, for your presentation as well.

16 I just wanted to comment to bring up, to bring up
17 three points.

18 You know, first, I want to reiterate the concerns
19 that were raised in Ms. Carol Weyman's letter, as Joel
20 mentioned and addressed. And while, while these concerns
21 are, are framed as construction-related and not zoning-
22 related per se, I am concerned because I live in one of the
23 units that is neighboring and that it is my understanding was
24 at risk of flooding before.

25 So, again resting on that letter, I just want to

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1 emphasize to the Board that while construction and zoning
2 issues may be separate, I do have some deep concerns about
3 construction. And we look forward to working with the owner
4 and any other individuals on the project to ensure that those
5 are, that those are addressed.

6 Second, and again this is construction-related but
7 I think it still bears on the zoning application itself,
8 second, I also noticed that at various points in
9 construction, and I believe as recently as yesterday, there
10 was use of our paved parking spots by folks who were doing
11 the construction.

12 Again, nothing against those individuals
13 themselves. I understand parking is tight. But we would ask
14 that either, if this application is approved that, that
15 parking spots for 1744 U Street are not used for
16 construction, or at least that there is some outreach, since
17 we have promised folks who have purchased our parking spot
18 the use of the parking spot. And I don't want any action on
19 this application to affect that.

20 And then, third, again if this application is
21 approved we would like more information about the expected,
22 about the expected length of the project, as well as any
23 other potential impacts to 1744 U Street.

24 Thank you.

25 CHAIRPERSON HILL: Thank you.

1 Sir, what's your last name again?

2 MR. LAM: Lam, L-A-M.

3 CHAIRPERSON HILL: Okay, great.

4 Okay. Mr. Heisey, do you know how long this
5 project might take if it's approved?

6 MR. HEISEY: It shouldn't take that long. A month
7 at most. It's more planning and those kind of issues.

8 CHAIRPERSON HILL: Okay. Are you going, are you
9 going to be through the project yourself, Mr. Heisey?

10 MR. HEISEY: I am the architect for the
11 contractor. I've worked with him for several years. They
12 do good work. I'm sure they can easily make contact.

13 I'm asking him right now if there's work being
14 done there, which I don't think there is. That would
15 surprise me to say that there is.

16 CHAIRPERSON HILL: Okay. Mr. Heisey, I appreciate
17 it, you've been before us before.

18 MR. HEISEY: Yes.

19 CHAIRPERSON HILL: And, Mr. Lam, Mr. Heisey has
20 been before us before.

21 Mr. Heisey, I trust that you will please make
22 contact with Mr. Lam, as you have, because he just called you
23 by your first name. And then, you know, please continue to
24 make contact, but in particular that contractor. Because
25 even though this is a short-term project, you know, you do

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1 come back before us often enough, Mr. Heisey, that if there's
2 bad blood with your project, somebody might come and make
3 noise.

4 So, please make sure that you are in touch with
5 Mr. Lam. Okay?

6 MR. HEISEY: Yes, of course.

7 And I just got the mention from the contractor.
8 He said they're not doing any work at that property.

9 So, I'm sorry, Mr. Lam, as far as I know that was
10 not anyone from this property.

11 But, yes, we certainly will contact you --

12 CHAIRPERSON HILL: Okay. Great.

13 MR. HEISEY: -- if there's any basis.

14 CHAIRPERSON HILL: Mr. Lam, give Mr. Heisey your
15 contact information.

16 MR. LAM: First, thank you. I apologize for the
17 lack of formalities. I'll go by Mr. Heisey.

18 MR. HEISEY: That's fine.

19 MR. LAM: I would direct correspondence to Carol
20 Weyman, who is our association president. I am one of the
21 renters you mentioned, but Carol is our association
22 president, so I would direct, actually, you correspond with
23 her and not me, if that's okay. But we can sort that out
24 offline.

25 CHAIRPERSON HILL: Okay, great. All right, as

1 long as you guys are in touch with each other.

2 Okay. Thank you, Mr. Lam, for your testimony.

3 MR. LAM: Thank you, Members of the Board. And
4 thank you, Mr. Heisey. I appreciate it.

5 MR. HEISEY: Thank you.

6 CHAIRPERSON HILL: Is there anything else from my
7 fellow Board members for the Applicant?

8 Okay. Mr. Heisey, I hope you have a nice August
9 also.

10 MR. HEISEY: Yes, same to you, and the rest of the
11 Board. Thank you.

12 CHAIRPERSON HILL: Thank you.

13 Going to close the hearing on the record.

14 Okay, even though it was confused originally, I
15 did find my files that I had reviewed. And I didn't have any
16 issues with this project. I thought it was really very
17 straightforward. And I'm glad that we were able to have some
18 testimony and take comments from the neighboring properties.

19 I would also agree with the Office of Planning's
20 analysis. And I will be voting for to approve this
21 application.

22 As well as I appreciate the ANC 2B's report and
23 action on this.

24 Mr. Blake, do you have anything else you'd like
25 to add?

1 MEMBER BLAKE: Mr. Chair, not very much.

2 I just want to say I do agree with the analysis
3 of the situation. I think that the Applicant has met the
4 burden of proof to be granted relief.

5 I would give good weight, great weight to the
6 Office of Planning recommendation for approval. I think the
7 analysis captures the criteria for approval.

8 I'd also note the unanimous support for the
9 project from ANC 2B, and also give great weight to its report
10 which states no issues or concerns.

11 ANC 1B was notified, so I don't see an issue there

12 And as you said, there are persons in support.
13 And the letter concerns as well as Mr. Lam's issues were
14 primarily construction-related issues, which are not under
15 the purview of the Board. And, obviously, these should be
16 taken up with EOD during the commenting process.

17 So, I would be voting in favor of the application.

18 CHAIRPERSON HILL: Thank you.

19 Vice Chair Miller?

20 MEMBER MILLER: Thank you, Mr. Chairman.

21 I concur with you and Board Member Blake that this
22 is a fairly straightforward case. It's special exception
23 criteria for just a slight, a minor increase in lot occupancy
24 has been met in this case. And so I'm prepared to support
25 the special exception relief here.

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1 And like you, would encourage the owner's
2 representative, Applicant's representative to continue to be
3 a good neighbor with their neighbors and provide that contact
4 information, as requested.

5 Thank you.

6 CHAIRPERSON HILL: Okay, thank you.

7 I think we might have lost Vice Chair John. I
8 think there was some issue that you had.

9 Is that correct, Vice Chair John, or are you
10 there?

11 VICE CHAIRPERSON JOHN: No, it's not correct, Mr.
12 Chairman. I accidentally turned off my video instead of my
13 mute button. So, I've been here, I'm sorry, --

14 CHAIRPERSON HILL: That's all right.

15 VICE CHAIRPERSON JOHN: -- and listening.

16 CHAIRPERSON HILL: Do you have anything to add?

17 VICE CHAIRPERSON JOHN: No, I don't have anything
18 to add.

19 I agree with all of the comments so far.

20 CHAIRPERSON HILL: Okay. Then I will go ahead and
21 make a motion to approve Application No. 21155, as captioned
22 and read by the Secretary.

23 And ask for a second. Ms. John?

24 VICE CHAIRPERSON JOHN: Second.

25 CHAIRPERSON HILL: The motion has been made and

1 seconded.

2 If you could please take a roll call vote, Ms.
3 Mehlert.

4 MS. MEHLERT: The Chair's motion to approve the
5 application.

6 Chairman Hill?

7 CHAIRPERSON HILL: Yes.

8 MS. MEHLERT: Vice Chair John?

9 VICE CHAIRPERSON JOHN: Yes.

10 MS. MEHLERT: Board Member Blake?

11 MEMBER BLAKE: Yes.

12 MS. MEHLERT: And Vice Chair Miller?

13 MR. MILLER: Yes.

14 MS. MEHLERT: Staff will record the vote as 4 to
15 0 to 1 to approve Application 21155, on the motion made by
16 Chairman Hill and seconded by Vice Chair John, with one Board
17 member not participating.

18 CHAIRPERSON HILL: Okay, great. Thank you.

19 All right. Let's see.

20 Ms. John, do we have anything for this next case?

21 VICE CHAIRPERSON JOHN: Yes. Yes, we do.

22 CHAIRPERSON HILL: Okay. If we could go ahead and
23 call our next case, Ms. Mehlert.

24 MS. MEHLERT: Next is Application No. 21164 of
25 Christopher Mak. As amended, this is self-certified

1 application pursuant to Subtitle X, Section 901.2, for
2 special exceptions under Subtitle U, Section 421; to allow
3 new residential development under Subtitle C, Section 305.1,
4 to allow multiple primary buildings on a single record lot.

5 Under Section F, Section 201.1 to allow an
6 increase in floor area ratio for a voluntary and stationary
7 development in from the rear yard requirements, Subtitle F,
8 Section 201.1, pursuant to Subtitle F, Section 5201.

9 This is a brand new six-unit apartment house on
10 the same lot as an existing apartment house with five units
11 in a semi-detached building and two stories in the basement,
12 located in the RA-1 zone at 113 Wayne Place, S.E., Square
13 6117, Lot 52.

14 And I'll note that the Applicant submitted revised
15 documents yesterday, amending their application to add the
16 rear yard relief, which I included in the caption. And those
17 documents are now in the record.

18 CHAIRPERSON HILL: Okay. So, this is the one that
19 I thought I was originally confused by.

20 Can the Applicants please introduce themselves for
21 the record?

22 MR. MAK: Yes. Hello, I'm here.

23 My name is Christopher Mak and I'm the owner of
24 the property. And on the call today I have my project
25 manager Odette McDonald, my architect team Denver Terrance,

1 and I believe Felicia Robson (phonetic) as well, if she is
2 able to make it.

3 Our project is at 113 Wayne Place, S.E. We have
4 an existing building on the lot which is currently occupied
5 and used as a five-unit apartment rental building. But we're
6 wishing to build a new building on the lot, which would be
7 a new construction. And it would be a six-unit apartment and
8 rental building.

9 So, I'm a small, family-owned developer and
10 landlord in Southeast D.C., and I'm excited to bring much
11 needed housing to the area. We typically build and rent
12 three-unit -- or three-bedroom apartment units. And there's
13 a severe lack of inventory in the area.

14 So, I'll hand it over to Denver Terrance, my
15 architect, and he can give an overview of the project design.

16 And I think we have a PowerPoint presentation on
17 here. I'm not sure if you guys can see it.

18 CHAIRPERSON HILL: Yeah. I'll also note that the
19 ANC commissioner is on.

20 Commissioner, could you introduce yourself for the
21 record.

22 You may be on mute, Commissioner.

23 MS. WILLIAMS: There it is. Okay, great.

24 Good morning, everyone. I am Commissioner Lakiah
25 Williams. And I wanted to come on today to just request that

1 these current developers or applicants actually present their
2 project to the ANC.

3 We've never received any actual presentation on
4 the actual request, and what they would be doing, and how it
5 would potentially affect the current community and residents
6 on this particular street.

7 CHAIRPERSON HILL: Okay.

8 MS. WILLIAMS: Yes.

9 CHAIRPERSON HILL: Mr. Mak, you guys haven't
10 presented to the ANC yet?

11 MR. MAK: We have presented. And we actually put
12 the documentation on file and have that signature of the, I
13 believe the co-chair. So, we have --

14 MS. WILLIAMS: You have the co-chair's signature.
15 However, there was no quorum and this was never presented to
16 the entire commission in front of the community to get the
17 community's buy-in.

18 CHAIRPERSON HILL: Commissioner? Commissioner,
19 aren't you the chair?

20 MS. WILLIAMS: I am the commissioner of the
21 current single-member district that their property is located
22 in.

23 CHAIRPERSON HILL: Got it. But you're not the
24 chair of AD?

25 MS. WILLIAMS: Correct.

1 CHAIRPERSON HILL: Okay. All right. So, did they
2 present to anybody yet? I'm just trying to ask you,
3 Commissioner.

4 MS. WILLIAMS: Not that I know of.

5 This is, this is even first time hearing it and
6 it's in my actual S&D. So, I believe Mrs. Odette
7 communicated this maybe last year of her intentions.
8 However, this was never fully presented with schematics and
9 all of the details to the actual ANC community.

10 CHAIRPERSON HILL: Who is Mrs. Odette?

11 MS. WILLIAMS: Apparently she's one of the other
12 applicants on this particular project.

13 CHAIRPERSON HILL: Okay. So, Mr. Mak, what we're
14 going to do is we're going to go ahead --

15 MS. McDONALD: No, unmute me.

16 Hello?

17 CHAIRPERSON HILL: Hello. Yes, who's trying to
18 speak?

19 MS. McDONALD: Okay. This is Odette McDonald.

20 I was trying to -- Can you hear me?

21 CHAIRPERSON HILL: Yes.

22 MS. McDONALD: Okay. On the -- we have, I don't
23 know if it's too late to submit the information, but I did
24 present, and I have screenshots of the meeting, to the ANC.
25 And I have communication back and forth with Ms. Yates the

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1 night of the presentation. I had about three to five minutes
2 to present.

3 And that had to take place before we could even
4 get the ANC form signed. So, that was on 11/30. And it was
5 I was introduced into the meeting. And I answered questions.
6 Ms. Ans (phonetic) was on the call and she asked me
7 questions. And other people asked me questions about
8 wheelchair accessibility.

9 CHAIRPERSON HILL: Okay.

10 MS. McDONALD: And when that was over --

11 CHAIRPERSON HILL: Give me a second. Give me a
12 second.

13 MS. McDONALD: Yes, sir.

14 CHAIRPERSON HILL: What's your name again?

15 MS. McDONALD: Sandra McDonald. Odette
16 McDonald. I'll say Ms. McDonald.

17 CHAIRPERSON HILL: Okay.

18 MS. McDONALD: Or, but I'm showing up as Sandra
19 for some of that.

20 CHAIRPERSON HILL: Okay.

21 MS. McDONALD: And, so, that was the presentation.

22 CHAIRPERSON HILL: Hold on. Is it Ms. McDonald?

23 MS. McDONALD: Yes, sir.

24 CHAIRPERSON HILL: Okay. Just hang on a second.

25 So, then the chair is also here, I think, from

1 ANC. Is it Ms. Chairman Yates?

2 MS. WILLIAMS: She's the vice chair.

3 MS. McDONALD: She's vice chair.

4 CHAIRPERSON HILL: Oh, okay. So, is Vice Chair
5 Yates on?

6 MS. WILLIAMS: I don't know.

7 MS. YATES: Yes, I'm here.

8 CHAIRPERSON HILL: Okay. Could you introduce
9 yourself for the record.

10 MS. YATES: Hello. I'm the Vice Chair Natasha
11 Yates.

12 To piggyback on what Commissioner Williams said,
13 I'm not sure I was told that she didn't present and that
14 she's supposed to have presented.

15 And I'm not sure about the revised letter that
16 they submitted, which was on yesterday, I presume. So, the
17 form that we have it was dated in December '23.

18 MR. MAK: Yeah, our designs haven't changed since
19 then. Everything has been the same. It was only different
20 cases for zoning laws which has kind of held up our process.
21 But our design has not changed since.

22 CHAIRPERSON HILL: Since when you presented it,
23 Mr. Mak?

24 MS. YATES: I'm saying -- I'm sorry. I'm sorry.
25 I'm saying what you're saying, Mr. -- can you guys

1 hear me?

2 CHAIRPERSON HILL: Yes.

3 MR. MAK: Yes.

4 MS. YATES: Hello?

5 CHAIRPERSON HILL: Yes, we can hear you, Ms.
6 Yates.

7 MS. YATES: Okay. I'm just saying, I'm just
8 saying what he's trying to say. However, if it was another,
9 if Ms. McDonald, you guys never presented in front of the
10 commissioners and the community then -- I'm on the phone.
11 I'm on the phone.

12 MS. McDONALD: Okay. What did I do? What did I
13 present then; was it not the community and the commission?
14 I'm looking at the screenshots of the communication.

15 Well, I mean, I was communicating with you.

16 CHAIRPERSON HILL: Hello. Hello, hello.
17 Everybody just, everybody just give me a second, okay?

18 MS. YATES: Uh-huh.

19 CHAIRPERSON HILL: So, Mr. Mak -- Everybody mute
20 your line unless I'm asking you to talk. Okay?

21 So, Mr. Mak, and I'm going to -- Oh, right. Go
22 ahead, Vice Chair John.

23 VICE CHAIRPERSON JOHN: So, Mr. Chairman, I had
24 a question about the ANC report at Exhibit 26. Was there a
25 new ANC report submitted? Does anyone know?

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1 I don't have access to the file, Mr. Chairman.

2 CHAIRPERSON HILL: Sure.

3 VICE CHAIRPERSON JOHN: That ANC report, we
4 couldn't give it weight because it doesn't show the number
5 of persons who were voting. I believe it's eight
6 commissioners, you needed a quorum of eight commissioners.
7 And it doesn't say how many commissioners were present and
8 how they voted.

9 So, I have some questions about what actually
10 happened with the ANC.

11 MS. McDONALD: I have a question as well.

12 What was the meeting I attended and presented?
13 What was considered?

14 VICE CHAIRPERSON JOHN: Ms. McDonald. Ms.
15 McDonald, can you wait for the chairman to ask you to speak?

16 MS. McDONALD: Oh, I'll mute it.

17 VICE CHAIRPERSON JOHN: Yes, thank you.

18 CHAIRPERSON HILL: So, okay, Commissioner
19 Williams, since I can see your face, so, Commissioner, there
20 is something in the record that says that something happened;
21 right? But it doesn't actually say what, it doesn't say one
22 vote or the other; right?

23 And it doesn't say, to the Vice Chair's comments,
24 how many people, you know -- it says a number of members that
25 constitute quorum, seven. So, it's not a complete filing

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1 from this; right?

2 MS. WILLIAMS: Correct.

3 CHAIRPERSON HILL: Do you know what that is and
4 what they actually, you know, who did they present in front
5 of?

6 MS. WILLIAMS: I don't have a clue what that
7 document is. Again, this is my first time actually even
8 seeing the document today.

9 However, when we do recommend something from our
10 ANC we normally submit a letter of recommendation stating all
11 the information that's required on that particular. Which
12 means how many people were there, what the vote was, did we
13 have a quorum or not, and so on and so forth.

14 CHAIRPERSON HILL: I got you.

15 MS. WILLIAMS: If you don't have that in your
16 letter, it was nothing that we presented.

17 CHAIRPERSON HILL: I got you.

18 MS. WILLIAMS: Okay, thank you.

19 CHAIRPERSON HILL: Commissioner Yates, can you
20 hear me? Okay, thanks.

21 You're the one that signed this. Do you know what
22 it is?

23 MS. YATES: Well, we spoke about it. I was under
24 the weather.

25 She's saying I met her and I signed the paper.

1 I spoke about it and it was a planning meeting we had, and
2 she supposedly came the next community meeting and presented
3 what she, what she was trying to do, on Wednesday.

4 CHAIRPERSON HILL: Okay.

5 MS. YATES: So, you know, that's how that went.

6 CHAIRPERSON HILL: Okay.

7 MS. YATES: And I was told that she never
8 presented, so.

9 CHAIRPERSON HILL: Okay. So, it sounds like --
10 Ms. McDonald, can you hear me?

11 MS. McDONALD: Yes, sir. I can.

12 CHAIRPERSON HILL: It sounds like you presented
13 to the Planning Committee and not a full ANC. Do you
14 understand?

15 MS. McDONALD: I'm listening.

16 CHAIRPERSON HILL: Okay. So, I mean, do you
17 understand what I'm saying? Like, the full ANC --

18 MS. McDONALD: I understand what you're saying.

19 CHAIRPERSON HILL: Okay, great.

20 So, we're going to go ahead now and hear --

21 MS. McDONALD: May I ask a question so that this
22 is on the record?

23 CHAIRPERSON HILL: Sure.

24 MS. McDONALD: It's unfortunate that nobody
25 recalls this chain of events. I have a lot of documentation.

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1 When I was requesting to present, the only thing
2 I was requesting to present was for the express effort of
3 getting our document, our project heard, approved, and
4 signed. I wasn't signing in to what I thought was anything
5 else.

6 Now, I understand a single-member district's to
7 sign things and what have you. But I didn't, I didn't take
8 -- Ms. Yates did not sign that document in front of me.

9 So, I'm just concerned that we're not being
10 consistent in the occurrences. I have screenshots of the
11 meeting. Other people were presenting that night. There
12 were several other people presenting that night before the
13 committee.

14 So, I'm not sure now, hindsight, I'm not sure what
15 I presented at. But I assumed it was the only thing I was
16 interested in was being able to present the project because
17 Ms. Yates --

18 CHAIRPERSON HILL: Okay.

19 MS. McDONALD: -- told me to submit my plans, and
20 I did.

21 CHAIRPERSON HILL: Ms. McDonald.

22 MS. McDONALD: Yes, sir?

23 CHAIRPERSON HILL: I'm just trying to explain.

24 MS. McDONALD: Explain.

25 CHAIRPERSON HILL: Usually the way it works is

1 there's the planning committee of the ANC. They listen to
2 whatever you're doing. Then they make a recommendation to
3 the full ANC. And then you present at the full ANC wherein
4 the public can actually comment on the application.

5 So, you, it sounds like, presented to the planning
6 committee but did not yet present to the full ANC.

7 MS. McDONALD: Uh-huh.

8 CHAIRPERSON HILL: So, we're going to go ahead and
9 hear your presentation regardless.

10 And I guess you're not giving it, right, it's Mr.
11 Mak?

12 MR. MAK: Yes.

13 MS. McDONALD: Well, we --

14 MR. MAK: Yes.

15 MS. McDONALD: -- Mr. Mak and our architect.

16 CHAIRPERSON HILL: Great.

17 All right. So, Mr. Mak's going to give the
18 presentation. And we'll see what happens next. But probably
19 you're going to have to still present to the full ANC.

20 MS. McDONALD: Okay.

21 CHAIRPERSON HILL: And we're going to have to hear
22 from everybody. Okay?

23 MS. McDONALD: Okay.

24 CHAIRPERSON HILL: So, let's go ahead and move
25 forward, however, with Mr. Mak.

1 So, if everybody can mute themselves except for
2 the person I'm speaking to.

3 So, Mr. Mak, if you could please continue with
4 your presentation again. And there was a PowerPoint that was
5 going to be brought up that I think Mr. Young has that Mr.
6 Terrance was going to speak to.

7 MR. MAK: Yes. Correct.

8 VICE CHAIRPERSON JOHN: So, Mr. Chairman, may I
9 ask a question before we get to this?

10 CHAIRPERSON HILL: Sure. Please go ahead.

11 VICE CHAIRPERSON JOHN: So, Mr. Mak, can you --
12 you've applied for relief for a theoretical lot subdivision
13 under C 205.1. I was looking through your materials to see
14 if the application complies with all of the requirements in
15 C 205.3 and C 205.4.

16 And the most important one is C 205.4. And that
17 provision says you should provide site plans that shows each
18 theoretical lot. And you need to show also the measurements
19 for the yards, for example, front yard.

20 Let me read it to you specifically.

21 "Required yards, such as rear, side, and front,
22 for each theoretical lot."

23 And when I looked at your plats, which is Exhibit
24 2, I didn't see where the dimensions of each theoretical lot
25 was provided. If you have that somewhere, can you pull it

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1 up?

2 MR. MAK: Okay. Yes, we have it.

3 We submitted, so this was part of our late re-
4 submission yesterday. We were just made aware of these by
5 Office of Planning yesterday. And we had updated our
6 documentation, and the Form 135, the burden of proof, of
7 plans, and have sent it in.

8 And we actually have, like, the plat site plan in
9 this presentation with the theoretical lot lines and the side
10 yards in this presentation. So, we can show it to you
11 momentarily.

12 VICE CHAIRPERSON JOHN: Excellent. Thank you.

13 MR. MAK: Yes.

14 All right. So, I did do my intersect on our
15 property and our building. You can see on this first page
16 a little graphic of it. But on the right side is existing
17 five-unit building. And we are going to build another
18 primary building on the lot, a six-unit building to the left
19 of it.

20 And I was just going to hand it over to Denver,
21 our architect, to go over some of the design plan and the
22 specifics of the lot.

23 MR. TERRANCE: Okay. Thank you, Christopher.
24 Thank you, Board, for allowing us to present our request for
25 some relief here.

1 So, the details of the project already been
2 discussed. We already, you all already got a chance to look
3 at the burden of proof document. And you are aware of what
4 we are requesting relief for.

5 So, the project is, there's an existing building
6 on the property. We're looking to build a six-unit apartment
7 in the rear of that property. So, the rear of the entire
8 property is a wooded area. This happens to be on a corner
9 lot with an alley on the side.

10 And if we go to the next slide sheet you could see
11 the existing building with the new building behind it. And
12 then farther behind that is, is just a wooded area.

13 North or above our property has another apartment
14 building there.

15 So, there's no nearby surrounding neighbors that
16 this new building pose any adverse effects to. And so this
17 is, this is an overview of what we're trying to do.

18 So, if we go to the next slide, it will show an
19 area view of what I was just describing, on the next two.

20 CHAIRPERSON HILL: Next slide, please.

21 MR. TERRANCE: Next slide.

22 And it's mostly a wooded area at the rear and
23 there is no, no prop -- no other buildings that are nearby.

24 So, if we go to the next slide, this is a list of
25 the items that we're looking to relief for, with the

1 subtitles. The one that we just talked about, the
2 theoretical subdivision which we scrambled to pull together
3 yesterday to submit.

4 And the final slide shows that.

5 But in that, in addition to that one we're looking
6 for FAR relief right now. The maximum allowed FAR is 1.08.
7 We're at 1.0. So, we're looking for some relief there.

8 We also have an issue with their setback. The
9 building now is unfortunately on a setback, which is a 20-
10 foot setback. And we're about 13 feet.

11 So, if you go to the final slide there, this
12 speaks to the proposed theoretical lots that you would see
13 there in red. And we are, this is what we're looking to do.
14 We added some vegetation along the alleyway. Also some
15 benches and seating to increase what we're trying to do with
16 the property.

17 So, in general, that's where we are. And I'll
18 stand by for your comments and questions.

19 VICE CHAIRPERSON JOHN: So, I have a question.

20 Does this show the side yards and the front yard
21 information?

22 MR. TERRANCE: So, it may not be presented here
23 on this sheet. In our construction documents we do show the
24 sides.

25 So, for example, if we could zoom in a little bit,

1 we can see the rear, the rear what we have right now.

2 So, in between the building, the theoretical lot,
3 there's 13 feet between the building, and we need 20 feet
4 there. And if we get --

5 (Audio interference.)

6 CHAIRPERSON HILL: I lost the sound. Can you all
7 hear Mr. Terrance? We lost you.

8 MR. TERRANCE: Okay. Sorry about that.

9 Yeah, I was just saying in between the existing
10 building and the new building we have 13 feet. With the
11 theoretical property line we would need 20 feet, and right
12 now we don't have that. So, that's the relief. We have the
13 dimensions at the top of the, of the page there shows --

14 CHAIRPERSON HILL: Mr. Terrance, can you just hang
15 on one second? I need to take care of one thing.

16 Let me -- I think Ms. John has to step away.

17 VICE CHAIRPERSON JOHN: Yes. Thank you.

18 But before I step away I wanted to say that I
19 don't think this, this diagram is going to cut it. I think
20 we have to see the theoretical lots with the measurements for
21 each yard.

22 And as I look at it, it appears that there is some
23 structure inside of the lot to the right.

24 Also, the diagram needs to be labeled as to what
25 each lot is, A or B.

1 So, it needs to look like a regular diagram. So,
2 each lot is technically separated, even if it's, even if one
3 building is on the lot line. I don't think this is going to
4 work for me.

5 So, thank you for indulging me, Mr. Chairman. I
6 believe this case has to be continued anyway, so I'm going
7 to have to step away. Thank you.

8 CHAIRPERSON HILL: Thank you.

9 I'll be right back.

10 (Whereupon, the above-entitled matter went off the
11 record at 11:37 a.m. and resumed at 11:40 a.m.)

12 CHAIRPERSON HILL: Okay. I'm sorry. Are you guys
13 back with me?

14 MEMBER BLAKE: Yes, Chair.

15 CHAIRPERSON HILL: Okay. Mr. Mak, can you hear
16 me? Okay.

17 Have you looked at 305.4?

18 MR. MAK: 305.4. Is that for the theoretical?

19 CHAIRPERSON HILL: Yes.

20 Mr. Beamon, can I hear from the Office of
21 Planning?

22 MR. BEAMON: Good morning. Good morning, Board
23 members. This is Shepard Beamon with the Office of Planning.

24 Do you want me to just go ahead and give our
25 little position or?

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1 CHAIRPERSON HILL: Sure Mr. Beamon, whatever you
2 want to do. Because this is going to kick back farther down
3 the road.

4 MR. BEAMON: Right.

5 CHAIRPERSON HILL: And it shouldn't be here yet.

6 MR. BEAMON: Yes. So, yeah, this project would
7 require a theoretical subdivision to allow two primary
8 buildings on a single lot.

9 And as you pointed out, the requirements for
10 licensing C 305.4 does require the site plan to include the
11 theoretical lot lines, which the Applicant did not initial
12 provide. But I think they have the site plats in the record.
13 I'm not sure about that yet.

14 CHAIRPERSON HILL: Yeah, okay.

15 Mr. Mak, can you hear me?

16 MR. MAK: Yes, I can hear you.

17 CHAIRPERSON HILL: This is a little bit -- I'm
18 going to send you back to the Office of Planning, okay? So,
19 I'm going to need, we're going to need updated plans as Vice
20 Chair John indicated. And I'm going to let any of my Board
21 members have any other things that they may want. Right?

22 We're going to have a continued hearing with this.
23 Right? Whatever you all just changed yesterday, you know,
24 adding relief and what have you, I know for a fact that at
25 least 305.4 is not complete.

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1 So, I'm going to kick it back to the Office of
2 Planning to come back, organize with us so that we can review
3 this in a way that isn't this disjointed.

4 Also, I'm going to send you back to the ANC.
5 Okay? So, you have to present to the full ANC.

6 So, what I suggest first is you go to the Office
7 of Planning, work with the Office of Planning. And I'm sorry
8 that this is where you are, but go back to the Office of
9 Planning, work with the Office of Planning.

10 Mr. Beamon, you understand what they need from us;
11 right?

12 MR. BEAMON: Right.

13 CHAIRPERSON HILL: Yes.

14 MR. BEAMON: Like I mentioned, some of these areas
15 of relief were identified later, post OP's filing of our
16 report. But it is self-certified, so.

17 CHAIRPERSON HILL: Okay, great. I appreciate
18 that.

19 I'm sorry, it's just it's a little disjointed for
20 me. And, I'm sorry, it's kind of the last hearing of the,
21 it's the last hearing of the year, so I'm a little tired,
22 also.

23 And so, I appreciate, though, that, Mr. Beamon,
24 things have changed since the last time this Applicant was
25 before you. But it doesn't seem very well -- it doesn't, it

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1 doesn't seem ripe for us. Okay?

2 So, if you can work with the Applicant, I'm going
3 to send, Mr. Mak, I'm going to send you back to the Office
4 of Planning. You can work with them to get 305.4, or
5 whatever you need to get it, you know, presentable to us.
6 You still need to go back before the ANC.

7 Is the commissioner still with us, Commissioner
8 Williams?

9 MS. WILLIAMS: Fred, I am still here.

10 CHAIRPERSON HILL: Yep. When do you -- I'm going
11 to change my name -- when do you meet in September?

12 MS. WILLIAMS: It's normally the last Thursday of
13 the month.

14 CHAIRPERSON HILL: Okay.

15 MS. WILLIAMS: So, let me just kind of go and see
16 exactly what date that is.

17 It should be September, it's going to more than
18 likely be the 26th of September.

19 CHAIRPERSON HILL: Okay.

20 MS. WILLIAMS: Yes.

21 CHAIRPERSON HILL: Mr. Beamon, you guys aren't off
22 in August; right? Okay, there you go.

23 So, could you work with this Applicant in August
24 so that they would be able to present to the ANC a more
25 complete package?

1 MR. BEAMON: Yep. Can do.

2 CHAIRPERSON HILL: Okay.

3 Mr. Mak, I'm going to send you back to Mr. Beamon.
4 Okay?

5 And I'm going to give Mr. Blake any questions he
6 has.

7 Then, Ms. Williams, or Commissioner Williams --

8 MS. WILLIAMS: Yes.

9 CHAIRPERSON HILL: -- do you think maybe they can
10 present to you in September?

11 MS. WILLIAMS: Yes. We can put them on our roster
12 for that particular meeting.

13 CHAIRPERSON HILL: Which one is it, please, again?

14 MS. WILLIAMS: It's going to be the September 26th
15 meeting.

16 CHAIRPERSON HILL: September 26th meeting.

17 Okay. So, Mr. Mak, you're going to present at the
18 ANC on September 26th. Okay.

19 And then September 26th. September 26th. And then
20 you said, Ms. Mehlert, that October 2nd was actually not
21 awful?

22 MS. MEHLERT: We just added the eighth case in the
23 earlier hearing, so.

24 CHAIRPERSON HILL: What is the 9th, the 9th and 16th
25 you said were jammed. And what's the 23rd?

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1 MS. MEHLERT: The 23rd is not, is not bad right
2 now.

3 CHAIRPERSON HILL: Okay. Mr. Mak, I'm going to
4 bring you back on October 23rd.

5 MR. MAK: Okay. All right. We can present then.
6 I guess could I just say a couple more things for
7 the record?

8 CHAIRPERSON HILL: Sure.

9 MR. MAK: I know, I do realize this was
10 disjointed. I apologize for that.

11 But, yeah, we were under the impression ourselves
12 that we had presented on, like, 11/30, November 30th ANC
13 meeting and had done everything appropriately and got all the
14 proper paperwork signed. So, we were just a little confused
15 with this.

16 But, if we have to present again, then I
17 understand if there was some kind of confusion there.

18 But, and secondly, we were only notified by the
19 Office of Planning about some of these additional changes
20 yesterday. And that was why we had to make these changes.
21 But we did submit everything.

22 And I guess the presentation we had submitted, I
23 guess this is the incorrect presentation. There was a later
24 presentation that we had submitted which did have the lot
25 lines, and the theoretical lot lines and the side yards

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1 actually on there. So, I'm not sure why that wasn't on this
2 presentation that we're trying to show.

3 So, but we apologize for that confusion.

4 CHAIRPERSON HILL: That's okay, Mr. Mak.

5 So, let me ask you a question.

6 MR. MAK: Okay.

7 CHAIRPERSON HILL: Does the 2nd of October versus
8 the 23rd of October do anything to your project?

9 MR. MAK: The 2nd --

10 CHAIRPERSON HILL: Is two weeks earlier going to
11 help you?

12 MR. MAK: Yes. Well, we've actually been in this
13 process for over a year trying to get this permitting done.

14 CHAIRPERSON HILL: Okay. How many, Ms. Mehlert,
15 how many on October 2nd? You said eight?

16 MS. MEHLERT: There's eight hearing cases and one
17 expedited review case.

18 CHAIRPERSON HILL: Okay. Ms. Williams, can you
19 hear, Commissioner Williams, can you hear me?

20 MS. WILLIAMS: I sure can.

21 CHAIRPERSON HILL: If you hear this on the 25th,
22 do you think you could give us something by that Monday,
23 September 30th?

24 MS. WILLIAMS: You mean on the 26th of September?
25 Is that what we're talking about?

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1 CHAIRPERSON HILL: The 30th, the 30th of September.

2 MS. WILLIAMS: Sure.

3 So, if they come to our September 26th meeting
4 they can present, and then we can submit a vote that
5 particular day, and then we can get them something by that
6 Monday.

7 CHAIRPERSON HILL: Okay, great.

8 MS. WILLIAMS: Okay?

9 CHAIRPERSON HILL: If you can submit something by
10 that Monday.

11 MS. WILLIAMS: Sure.

12 CHAIRPERSON HILL: Let's go ahead and put them on
13 10/2, please, Ms. Mehlert.

14 Oh, go ahead, Mr. Blake.

15 MEMBER BLAKE: I reviewed the burden of proof
16 statement. And I understand the haste with which you put it
17 together, but I would suggest you go back and review the area
18 variance requirements because it's an exceptional condition
19 leading to proximal difficulty, you know, and not, you know,
20 causing issues with the neighbors with the zoning extensions.

21 When I looked through your burden of proof
22 statement it doesn't actually address those issues well. So,
23 I would suggest that you go through and just try to build a
24 strong case for the variance test.

25 I'm sure Mr. Beamon can help you with that. But

1 the argument that you presented, it's a paragraph long on
2 page 5, and really doesn't address the issues well.

3 CHAIRPERSON HILL: Okay. Mr. Beamon, did you hear
4 the comments from Mr. Blake?

5 MR. BEAMON: Yes, I did. And we're more than
6 happy to work, to continue to work with the Applicant on this
7 application.

8 CHAIRPERSON HILL: Please do, Mr. Beamon.

9 I would love for this to at least come back in a
10 way that was easier for me to understand. Okay?

11 MR. BEAMON: Yep.

12 CHAIRPERSON HILL: Thank you. Thanks.

13 All right. Mr. Mak, then I'm going to send you
14 back to the Office of Planning. You'll go ahead and present,
15 I mean get all your ducks in a row by the 25th, for sure,
16 working with the AN -- you know, getting ready for the ANC
17 on the 25th. Then we'll be back here.

18 And I appreciate all the time that you've put
19 forward. What I'm just trying to say, Mr. Mak, is we're,
20 we're really burdening 10/2, the date 10/2, so I'm doing my
21 best to help you guys. Because I know it's been a year. I
22 know it's been a long time. It's not something that even I,
23 as someone who lives in the District of Columbia, want to be
24 part of the bureaucracy that stops things from happening.
25 But it has to be in a way that we can understand it. Okay?

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1 MR. MAK: Okay.

2 CHAIRPERSON HILL: All right. So, come back 10/2.

3 Okay. All right. Mr. Mak, we're going to come
4 back for a continued hearing on 10/2. Okay?

5 MR. MAK: Okay.

6 CHAIRPERSON HILL: Okay, great. Then we'll see
7 you then.

8 MS. MEHLERT: Deadline for the Applicant's
9 submissions prior to the ANC meeting?

10 CHAIRPERSON HILL: I apologize. You want to bring
11 back in Mr. Young, Mr. Mak.

12 MR. MAK: Sorry. What was the question?

13 CHAIRPERSON HILL: No, that's all right, Mr. Mak.
14 We're trying to give you a deadline for your
15 documentation.

16 MR. MAK: Okay.

17 CHAIRPERSON HILL: And, Mr. Beamon, are you still
18 there?

19 If you could bring Mr. Beamon back in, Mr. Young.

20 Thanks.

21 What date, Ms. Mehlert, do you think we should
22 give the Applicant?

23 MS. MEHLERT: So, if the ANC meeting is on the
24 26th, perhaps they could submit it the week prior, on
25 September 18th. If that's enough time for them to work the

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1 Office of Planning and also give enough time for the ANC to
2 review.

3 MR. MAK: That would be okay for us.

4 CHAIRPERSON HILL: Mr. Beamon, do you think you'll
5 be able to help them before that time?

6 MR. BEAMON: So, we would ultimately have a week
7 after the ANC meeting to have a report? Is that what I'm
8 understanding?

9 CHAIRPERSON HILL: No. Ms. Mehlert?

10 MS. MEHLERT: Sorry. So, if you want to -- so I
11 was thinking of when the Applicant would submit before the
12 ANC meeting.

13 But in terms of the supplemental OP report,
14 perhaps you could do the Applicant's submissions by September
15 13th, the OP supplemental by the 20th, and then they would
16 meet with the ANC on the 26th.

17 MR. BEAMON: Yeah, that works for OP.

18 CHAIRPERSON HILL: Great.

19 And then, Mr. Mak, you need to get, you need to
20 get with Mr. Beamon to understand everything that you need
21 to submit by September 13th. Okay?

22 MR. MAK: Okay. Understood.

23 CHAIRPERSON HILL: Okay, great.

24 All right. Ms. Mehlert, was there anything else?

25 MS. MEHLERT: I don't think so.

1 In terms of what you're requesting from the
2 Applicant, you needed to see the additional materials,
3 Subtitle C 305.4 requirements, and then a revised burden of
4 proof I believe is what Mr. Blake wanted to confirm.

5 MEMBER BLAKE: Yes.

6 MS. MEHLERT: Okay.

7 CHAIRPERSON HILL: Thank you.

8 Okay, great. All right, we'll see you in the
9 fall, Mr. Mak.

10 MR. MAK: All right. Thank you.

11 CHAIRPERSON HILL: Thank you.

12 Thank you, Commissioners, for coming.

13 Okay. I need to take a quick break, okay. And
14 then can we take 10 minutes?

15 Oh, my God, did we lose -- where is Commissioner
16 Miller?

17 MR. MILLER: Here. I'm having some video issues.
18 But as long as you can hear me.

19 CHAIRPERSON HILL: Okay, great. As long as --

20 MR. MILLER: I'll try to long on -- log off and
21 log on again.

22 CHAIRPERSON HILL: Okay, let's come back in, like,
23 10, 15 minutes.

24 MR. MILLER: Okay, thank you.

25 CHAIRPERSON HILL: Thank you.

1 (Whereupon, the above-entitled matter went off the
2 record at 11:54 a.m. and resumed at 12:08 p.m.)

3 CHAIRPERSON HILL: All right. Ms. Mehlert, do you
4 want to call our last one?

5 MS. MEHLERT: Sure. The Board is back from break,
6 and the last case in the hearing session is Application
7 Number 21132 of Marwick Associates, LLC. This is an
8 application pursuant to Subtitle X, Section 901.2 for special
9 exceptions under Subtitle G, Section 5200.1 from the rear
10 year requirements of Subtitle G, Section 207.6 and from the
11 lot occupancy requirements of Subtitle G, Section 210.1.

12 This is for a rear addition to an existing four-
13 story semi-detached building located in the MU-5A/DC Zone at
14 1641 R Street Northwest, Square 178, Lot 97.

15 The hearing was originally scheduled for June 12th
16 and postponed at the applicant's request. And party status
17 in opposition was also granted to Abdollah Poozesh on June
18 12th.

19 CHAIRPERSON HILL: Okay, great. If the applicant
20 can hear me, if they could please introduce themselves for
21 the record.

22 MR. BROWN: Hello. Patrick Brown from Greenstein
23 DeLorme & Luchs with my team.

24 CHAIRPERSON HILL: Okay. Great. Welcome --

25 MR. BROWN: John --

1 CHAIRPERSON HILL: I'm sorry. Go ahead, Mr.
2 Brown.

3 MR. BROWN: John Sisk from Marwick Associates, the
4 developer.

5 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.
6 Brown.

7 MR. BROWN: And remotely, John Edwards from
8 Bonstra Architects Design at a remote location.

9 CHAIRPERSON HILL: Okay. Great. Thank you. Mr.
10 Edwards, do you want to introduce yourself for the record?

11 MR. EDWARDS: My name is John Edwards. I'm an
12 associate partner at Bonstra/Haresign Architects here in D.C.
13 And we prepared some exhibits for this presentation.

14 CHAIRPERSON HILL: Okay, great. Could the party
15 status in opposition please introduce themselves for the
16 record?

17 MS. WILSON: From Sullivan and Barros. And I am
18 representing the party opponent in this case, Mr. Poozesh.

19 CHAIRPERSON HILL: Okay, great. All right. So
20 I know that both counselors are well aware of the Board and
21 how we work through cases. So I won't bother explaining
22 that.

23 Mr. Brown, if you want to go ahead and walk us through
24 your client's application and why you believe they are
25 meeting the criteria for us to grant the relief requested.

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1 I am going to put 15 minutes on the clock just so
2 that I know where we are. And you can begin whenever you
3 like.

4 MR. BROWN: Very good, Chairman Hill. And I want
5 to indicate and make it clear from the beginning that our
6 client is here as a result of the need to bring their
7 property into compliance, having exceeded the original BZA
8 approval they received a few years back.

9 So their responsibility and their goal here today
10 is to bring their property into compliance. That requires
11 the two special exceptions for what I refer to as the notch
12 in building for lot occupancy and also for rear yard.

13 Mr. Young, if you could, and if I could just jump
14 ahead real quick to Slide -- well, why don't we just start
15 scrolling through. It's who we are.

16 Next slide. Here is a shot of the building at the
17 corner of 17th and R Street Northwest in Dupont Circle
18 neighborhood.

19 Next slide. Background on the property.

20 Next slide. And here, 350 Bakery, which is the
21 largest ground floor tenant, you can see an outdoor café.
22 They opened recently, and they are serving 1,100 to 1,200
23 customers a day, which is great for the business and the
24 neighborhood.

25 Next slide, Mr. Young. Another outdoor shot.

1 Next slide. Next slide. This is from the roof
2 of 1641 R looking down prior to the addition. The addition
3 -- in the original BZA approval, it approved partially
4 filling in that space and subsequently the construction
5 filled in that entire space from the existing first floor up
6 to the fourth floor.

7 Next slide, Mr. Young, please. There is the
8 existing first floor prior to the construction.

9 Next slide. Here on the left is the roof line of
10 1641 R and on the right the roof line and building of 1709
11 17th Street. You can see that those buildings are in very
12 close proximity.

13 Next slide, Mr. Young. Partially construction
14 that very filled in.

15 Next slide. You can see here this was the
16 existing floor plan, first floor, 100 percent lot occupancy.

17 Next slide. Second floor, the red area is what
18 was filled in beyond the scope of the BZA application. It
19 is partially the balcony on the outside and approximately 4
20 feet of additional building space.

21 The next slide -- you will see the next several
22 slides, third -- next slide -- fourth floor. Next slide,
23 roof line. Next slide, side view showing addition that was
24 constructed.

25 Next slide. And I will let Mr. Edwards go through

1 his shadow study presentation. But just briefly, the special
2 exception standard demonstrated clients with obviously
3 harmony with the general purpose intent of the zoning
4 regulations. This is minor relief mixed-use building
5 apartments and retail are consistent with MU-A 18 zoning,
6 increasing housing supply. All this is laid out in our
7 filings.

8 Relief will not have an adverse effect on the use
9 of neighboring properties as Mr. Edwards will demonstrate.
10 No impact on 1709's light and air, not only -- visible on a
11 slide later I will be showing you. An addition that we made
12 will be substantially obscured by the rear addition that is
13 planned and under permit for 1709. In our supplemental
14 filings, we have added the request of 1709 metal privacy
15 screens to enhance reciprocal privacy and security.

16 Next slide. And specific to G 207.14, the windows
17 that are recessed in the balconies were previously approved
18 in the earlier BZA case, but set back 4 feet further from
19 where they are now. So they have been pulled forward 4 feet.

20 Those windows are not directly in front of the
21 1709 windows. The second floor balcony you will see in a
22 later side has been eliminated, closed. The privacy screens
23 have been added for security and privacy. And the windows
24 on adjoining buildings are not parallel to this property and
25 in direct or obscured sight lines by the angles as well as

1 the metal privacy screens.

2 There are no office windows involved, and this
3 building has never had alley access as part of loading. That
4 obviously did not change here.

5 Next slide. Briefly, 1709 you approved a rear
6 yard addition, first floor and lot occupancy mezzanine level
7 that will obscure the second floor balconies as they exist
8 now.

9 The current permit plans are showing a deck area,
10 no railings that I don't believe were shown on BZA approved
11 drawings as well as one or two boards being substituted for
12 existing windows onto that deck area. You can see on the
13 approved plans.

14 Next slide, please. And here is the view of the
15 as-built condition. The arrow shows about -- actually, it
16 probably overstates the height of the 1709 addition.

17 Next slide. And here is the existing rear
18 elevation. And you will see the balconies on the second,
19 third and fourth floor of windows and a doorway to each.

20 Next slide. As we proposed, the second floor
21 balcony would be closed and eliminated, a matching brick wall
22 to the existing structure. On the second and third -- third
23 and fourth floor balconies, we have added a metal privacy
24 screen. That screen can either be from floor to a height of
25 six feet or it can be three feet above a 42 inch high railing

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1 for a total height of six and a half feet. Either option is
2 acceptable to the applicant.

3 Next slide. Here is a picture of the privacy
4 screen. We also have a link to the website for it. A half
5 inch clover pattern, 51 percent open area, carbon steel, and
6 be permanently affixed to the existing building.

7 Next slide. And I would like to turn it over to
8 Mr. Edwards to walk through the shadow steps.

9 MR. EDWARDS: Great. Good afternoon, Chairman
10 Hill and members of the Board. Bonstra/Haresign Architects
11 was the architect for the interior alterations of this
12 building. We were asked to prepare shadow studies to compare
13 the BZA approved condition with the as-built condition.

14 So this was done using our BIM, our building
15 information model, for 1641 R Street and also modeling for
16 the adjacent buildings. We did not have drawings per se for
17 those buildings. But through records online as well as
18 visual survey and observation, we were able to create those
19 in order to do the shadow study.

20 We are showing three different times of day on
21 four different days throughout the year and put both
22 conditions. And as you will see, the result is that we
23 didn't see any significant change in the impact of light and
24 air or of shadows on the adjacent property.

25 So next slide. So this is showing the shadows on

1 the summer solstice. This is the BZA approved conditions.
2 You can see that the tightness of the building behind 1641
3 R, which is on the left side of these drawings, and the bay
4 front is on the adjacent property. So these are three times
5 during the day on the summer solstice showing the shadows on
6 that property in the BZA approved condition.

7 Next slide. This is showing the same three hours
8 on the same day of the year with the as-built condition. So
9 as you can see, there is no significant change in terms of
10 the shadows on that window.

11 Next slide.

12 VICE CHAIRPERSON JOHN: Can I ask a question?

13 CHAIRPERSON HILL: Yes, please. Go ahead, Vice
14 Chair John.

15 VICE CHAIRPERSON JOHN: This is all very confusing
16 to me.

17 MR. EDWARDS: Okay.

18 VICE CHAIRPERSON JOHN: So can you maybe describe
19 what was filled in contrary to what was approved as you go
20 through these shadow studies? Maybe just do it on one slide.

21 MR. EDWARDS: Sure. Starting with this one, which
22 is at the spring equinox, if you look at the drawing on the
23 left-hand side of the screen, you will see that there is a
24 notch in the building on the left, which is 1641 R Street.
25 That was the original BZA approved contour of that building,

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1 which notches in and sits back from the property line.

2 If you go to the next slide, you will see that
3 that notch is not there. So that line has been brought
4 pretty much straight across. There is a little bit of indent
5 along the property line. Again, looking at a 1641 R Street
6 Building at the far left.

7 So that's the difference between the BZA approved
8 condition and the as-built condition for the purposes of the
9 shadow study. So the shadows are being cast either with that
10 notch or without that notch. Does that clarify?

11 VICE CHAIRPERSON JOHN: No. So there is no longer
12 a dog leg, is that what you're saying, what we call a dog
13 leg?

14 MR. EDWARDS: Well, it wasn't really a dog leg.
15 It was a rear yard on that property that sat back from the
16 property line. But essentially, yes, that is correct.

17 VICE CHAIRPERSON JOHN: So if I were to draw a
18 straight line across from left to right, you took it to 100
19 percent to the rear yard aligned --

20 MR. EDWARDS: It's not quite 100 percent. You can
21 see there is a little bit of a notch. I don't think I have
22 pointer capability, but --

23 CHAIRPERSON HILL: Mr. Young, Mr. Young? I'm
24 sorry. Can you go back one side? Thanks for the hand. And
25 if you put that hand over that little gap -- yeah. Go, yeah.

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1 MR. EDWARDS: A little bit to the left.

2 CHAIRPERSON HILL: A little bit more to the left.

3 MR. EDWARDS: A little bit more to the right. So
4 where the shadow just starts. So that's the edge of the
5 building now.

6 CHAIRPERSON HILL: Right. Just give me a second,
7 Mr. Edwards. Give me a second, Mr. Edwards. So, Mr. Young,
8 that -- put your hand there again. So now go to the next
9 slide and put the hand there again. That little area is what
10 got filled in, correct, Mr. Edwards?

11 MR. EDWARDS: That is correct. Thank you.

12 CHAIRPERSON HILL: So just out of curiosity, Mr.
13 Edwards, again, somebody had asked like how did we get to
14 this point also and then if this just kind of happened, how
15 come they didn't fill in all the way to that little edge?

16 MR. EDWARDS: That is a question that I will leave
17 for the applicants to answer because we were not actually
18 involved in the design of that. At this point, we just
19 provided these shadow studies. But if they want to answer
20 that now or if you want me to go through the shadows.

21 CHAIRPERSON HILL: That's all right. You can go
22 through the shadows. Vice Chair John, I didn't mean to
23 hijack. I was just trying to understand that little
24 infilled area.

25 VICE CHAIRPERSON JOHN: I think I understand it.

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1 So this is the before.

2 MR. EDWARDS: What you are looking at right now
3 is the after.

4 CHAIRPERSON HILL: Go back to the before, Mr.
5 Young. And put the hand in the area that gets filled in.

6 MR. BROWN: Chairman Hill, can I interject? If
7 we can go back to Slide 11. That's what -- you will see that
8 area is what is filled in through the construction of the
9 outer wall and the --

10 (Simultaneous speaking.)

11 CHAIRPERSON HILL: If you go back even one more,
12 Mr. Young, that shows that little notch, that little tiny
13 notch.

14 MR. BROWN: Yes.

15 CHAIRPERSON HILL: So if you go back -- I don't
16 have a pointer either. If you go back to that shadow study,
17 yeah. You can kind of toggle between the back and forth.
18 The next two slides, you can see it getting filled in.

19 VICE CHAIRPERSON JOHN: Okay. Okay. All right.
20 I get it, I think. That's why I'm not an architect. You
21 have too many keys. You know, like you're talking to an
22 eighth grader. Okay. I think I'm okay now. Thank you.

23 MR. EDWARDS: Great. Thank you. So this, again,
24 is on the spring equinox with the as-built condition. And
25 if you toggle back to that slide before, you will see the

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1 effect of the shadow on the building to the rear and those
2 three smaller pictures to the right that's showing the
3 windows on the rear of the upper two stories of the adjacent
4 building.

5 And next slide. That's the as-built condition,
6 which is not appreciably changing but it's in shadow.

7 If you go the next slide, that is at the winter
8 solstice. So this is the greatest extent of the shadow.
9 This is the previously approved BZA, where you can see that
10 almost all of the windows at this point would be in shadow.

11 If you go to the next slide, this would be the
12 same date and times with the as-built condition, which again
13 is not showing an appreciable difference than what it in
14 shadow in terms of the windows of the building.

15 And finally the next slide is the last set at the
16 fall equinox, which is very similar to in spring. This is
17 what it would be in the BZA approved condition. And in the
18 next slide, in the as-built condition.

19 So once again, it does not appear that there is
20 an appreciable increase or significant difference than what
21 is in shadow, whether is it the previous approved condition
22 or the as-built condition in terms of the shadows being cast
23 on the building to the rear of the adjacent building to the
24 rear.

25 And if you have any other questions on these while

1 they are up, I will be happy to answer. Otherwise, I will
2 turn it back over the applicants to continue.

3 VICE CHAIRPERSON JOHN: Thank you.

4 MR. BROWN: Chairman Hill, you had a question?

5 CHAIRPERSON HILL: No, that's all right. I mean,
6 Mr. Brown, I mean, I'm just curious how you go to this point
7 also, like, why would you not have just made the approved
8 plans from BZA?

9 MR. BROWN: It was a lot of different
10 circumstances at the time. You know we started the project
11 back in roughly 2018 going through COVID. I guess the best
12 explanation, we got ahead of ourselves and didn't resubmit
13 in time.

14 CHAIRPERSON HILL: Okay. So --

15 VICE CHAIRPERSON JOHN: So I have a follow-up
16 question. Was there an enforcement action by the DOB?

17 MR. BROWN: Yes. Yes, there was. Just some of
18 which I wasn't involved in. But, yes, there was discussions
19 between the zoning branch and the applicant and as a result
20 of that, they were required and the zoning administrator
21 provided the BZA referral memo that we submitted. And that
22 was their instructions to keep compliance.

23 VICE CHAIRPERSON JOHN: So thank you. But this
24 Board has no enforcement authority. So I am just asking so
25 I can understand. Was there some sort of financial penalty

1 involved?

2 MR. BROWN: No, not specifically, no. There was
3 no fine imposed that I'm aware of. Their project has been
4 delayed considerably. But, again, we're not pleading
5 poverty. It's their responsibility for that and for bringing
6 this case to be approved.

7 VICE CHAIRPERSON JOHN: Okay. Thank you.

8 MR. BROWN: And if I could, and I want to --

9 MEMBER BLAKE: A quick question, Mr. Brown. The
10 CFO for the café in the front of the building is in
11 operation. The back rear is the habitable space or the
12 residential space is not able to get a CFO at this point?
13 What is the implications of this?

14 MR. BROWN: The ground floor of both retail
15 tenants have CFO. The residential units, we're not currently
16 constructing them. They are partially completed, but their
17 completion is on hold is the short answer.

18 MEMBER BLAKE: Okay. So none of the residential
19 space is completed, just the commercial space in the plan.

20 MR. BROWN: That's right.

21 MEMBER BLAKE: And how many units are being
22 affected by that in the rear?

23 MR. BROWN: Nine units plus the penthouse.

24 MEMBER BLAKE: Okay. Thank you.

25 MR. BROWN: Although because we have to fill in

1 the second floor, we have to eliminate one of the units
2 because without windows, it becomes non-habitable. So we've
3 got eight units plus a penthouse.

4 MEMBER BLAKE: Okay. Thank you.

5 MR. BROWN: And if I could just wrap up very
6 quickly. We tried to be very responsive to the neighbor in
7 1709 and some of the issues they've raised. You will see
8 that in our revised plans. But I would like to go through --
9 provide the full range of shadow studies comparing the
10 approved and as-built condition.

11 We've eliminated the second floor balcony. The
12 metal screens are at 6 or 6-1/2 feet of height for security
13 and privacy. Our rental contract -- these are going to be
14 rental units -- it includes language that maintains the metal
15 privacy screens. The tenants don't have the ability to alter
16 or remove the primary fixed screens.

17 We have offered a not to exceed allowance for
18 replacement of the immediately adjacent windows at 1709. We
19 haven't had a response to an offer. But that is something
20 best handled outside of BZA.

21 We made clear that all of the stormwater at 1641
22 R is maintained, controlled and disposed of onsite so that
23 there is no impact on the adjacent properties.

24 There is no means of access from the roof at 1621,
25 and you will remember I showed you a picture of the two roof

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1 lines.

2 We have outstanding offers for an easement
3 construction assistant access, another cooperation. And the
4 end result is what was built has not created any harm or
5 impediment on 1709 17th Street. And I think we've
6 established that fairly clearly.

7 With that, I will stop talking, answer any
8 questions and save rebuttal and closing remarks.

9 CHAIRPERSON HILL: Okay. All right. So I am now
10 going to ask the party in opposition if they would give their
11 presentation -- oh, sorry. Go ahead, Vice Chair John.

12 VICE CHAIRPERSON JOHN: I have a question about
13 the unit that was eliminated. Is that shown on the plans?

14 MR. BROWN: Vice Chair John, we did not in this
15 application show plans for the interior units.

16 VICE CHAIRPERSON JOHN: So what was approved
17 before was nine units.

18 MR. BROWN: That's correct.

19 VICE CHAIRPERSON JOHN: And now you are doing
20 eight units, and you are removing a balcony. So my question
21 is --

22 (Simultaneous speaking.)

23 VICE CHAIRPERSON JOHN: Pardon?

24 MR. BROWN: I'm sorry. Just to clarify, we had
25 10 units that were approved, 9 units plus a penthouse. And

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1 so we are eliminating the second floor unit because we are
2 bricking in the balcony so it becomes eight units plus a
3 penthouse for a total of nine.

4 VICE CHAIRPERSON JOHN: Okay. And --

5 MR. BROWN: From a zoning perspective, the change
6 from a lesser unit's interior is not a zoning or BZA matter.
7 And it doesn't require any additional relief beyond what we
8 are asking for here, which is rear yard and lot occupancy.

9 VICE CHAIRPERSON JOHN: I understand that. But
10 this is a 10 unit building. And typically, we see where the
11 units are located. And that's why they come before the
12 Board. I don't know what other Board members think. But,
13 you know, anyway. Those are my thoughts.

14 CHAIRPERSON HILL: Okay. Thank you, Vice Chair
15 John. Go ahead, Mr. Blake.

16 MEMBER BLAKE: I mean, to some extent, I would be
17 curious to see how that second floor is being utilized. The
18 ambiguity in it is concerning because even with plans, the
19 applicant has seemed to have veered off course. So I would
20 be curious with no plans what would happen.

21 CHAIRPERSON HILL: Okay. So it looks like, Mr.
22 Brown, we are going to look for plans at some point in time.
23 But we will just keep chugging along here.

24 MR. BROWN: The question - and for a matter of
25 clarity, one, I am not so sure why their plans for the

1 interior build-out are relevant, but then the other question
2 is what would you be looking for in those plans? Just the
3 simple floor plans for those units? The residential units
4 have all been permitted.

5 CHAIRPERSON HILL: Okay. Hold on, Mr. Brown. So
6 Mr. Blake and Ms. John, would the actual plans, the layout,
7 be sufficient to answer any questions you may have?

8 VICE CHAIRPERSON JOHN: Yes.

9 CHAIRPERSON HILL: Okay. There you go, Mr. Brown.

10 MR. BROWN: Very good.

11 CHAIRPERSON HILL: So that's one. And there was
12 something about an updated plat I think that somebody had a
13 question about. But I'm going to wait until we keep kind of
14 chugging along here.

15 Let's see. Okay. So now the party in opposition,
16 would you like to give us your presentation?

17 MS. WILSON: I am having a little bit of lag here
18 so I might turn off my video at some point. I have a
19 relatively limited oral presentation just providing context
20 for the continued opposition.

21 Mr. Brown walked through some of the background.
22 There was an original BZA case for this property. They built
23 beyond the scope of that. Mr. Poozesh, my client, supported
24 the original project, which was more limited in scope than
25 what's proposed today, including more limited impacts on

1 light, air and privacy.

2 Then a couple years later when Mr. Poozesh
3 proposed his one-and a half story rear addition, the
4 applicant opposed that to this Board, claiming it would
5 impact this balcony addition. But then during the BZA
6 process and hearing, it came to light that these balconies
7 were constructed illegally beyond the scope of the BZA
8 approval.

9 Then at the BZA proceedings for Mr. Poozesh's
10 case, applicant's former counsel said that the balconies were
11 going to be taken off since they were constructed illegally.
12 Of course, that didn't happen because we are here now. And
13 this application was filed with none of this background
14 information originally.

15 The photos of our upper floors, which include
16 residential windows about 4 feet from the shared property
17 line weren't included in the original application either.
18 So we filed for party status and brought this information to
19 light. And then once we did that, OP wanted additional
20 information on mitigation resulting in a postponement. And
21 had we not been involved, it is unclear whether this would
22 have been brought to light.

23 So after we raised these issues and secured a
24 postponement, Mr. Brown reached out essentially to ask what
25 we wanted. And this is somewhat of a loaded question to ask

1 in this case because the structure is already built. There
2 is no opportunity to negotiate for a smaller addition, which
3 would reduce the impacts on light and air and privacy.

4 The shadow studies do demonstrate that the
5 original addition had less of an impact on light and air to
6 the residential windows, specifically during spring at 10:00
7 and noon, winter at 10:00 a.m. and fall at 10:00 and noon.

8 It is ultimately up to the Board to decide whether
9 this rises to the level of undue impact. And I am not
10 suggesting there be absolutely zero impact. But it
11 definitely reduces the light and air available to these
12 bedroom windows relative to the original BZA approval.

13 And this is critical because had this not already
14 been built, perhaps we could have, for example, offered to
15 remove our party status in opposition in exchange for the
16 reduction of the balconies to reduce the impacts.

17 Even if the balconies were a few feet shorter, it
18 might have some impact. But I imagine it would make a
19 difference for the residential units in terms of light and
20 air for the mornings and fall and spring, which is about half
21 the year, plus the earlier morning and the winter. But the
22 opportunity to negotiate a reduction was taken away once this
23 was illegally constructed.

24 And we had asked for these shadow studies. They
25 were not provided in the original filing. And we had asked

1 for confirmation by HPO as well as other assurances regarding
2 the screens not being removed by the tenants and more details
3 regarding the screens. And so that information was
4 submitted in a pre-hearing submission along with a 200 plus
5 signature petition in support, but with no addresses for
6 those supporters and also the supporters are from all around
7 DC, and the people signing are not impacted at all by these
8 balconies. My client is really the only impacted party.

9 And he is not opposing the interior use, those
10 successful commercial businesses mentioned in the petition.
11 Those are great. We have absolutely no complaints about
12 those.

13 Most of the stuff mentioned in the petition has
14 absolutely nothing to do with this case. It appears as if
15 this petition is being used as a way to make it seem like Mr.
16 Poozesh is the lone opposing neighbor who is being
17 unreasonable for having an issue with commercial businesses.
18 He has an issue with what is taking place here.

19 Even in Mr. Brown's presentation, he couldn't help
20 but mention minor changes to our BZA approved plans, which
21 have nothing to do with his case or our opposition. What
22 point is that proving other than to suggest we are being
23 unreasonable somehow?

24 He also mentioned they had to eliminate a unit on
25 the second floor by closing that balcony as if it was a

1 concession. But the reason they had to eliminate the unit
2 was due to their choice to illegally build basically up to
3 the property line.

4 And this history is important here. I, of course,
5 have clients come to this Board requesting after the fact
6 relief. However, it is always because there is an issue due
7 to ambiguity or approval with DOB. In a lot of the cases,
8 we have won on estoppel claims because DOB issues a permit
9 in error, and the client built according to the permit plans.
10 That is not the case here.

11 I can't think of a time either where a client was
12 so bold as to oppose a neighboring BZA case based on illegal
13 improvements either. So that's part of the frustration here
14 by Mr. Poozesh.

15 In addition to that frustration, in the
16 aforementioned issues related to light and inability to
17 negotiate or further limit those impacts, Mr. Poozesh is also
18 concerned about privacy. The existing residential units have
19 windows about 4 feet from the property line. These are
20 bedroom windows. And, again, there is no opportunity to ask
21 the applicant to reduce these balconies by 2 or 4 feet,
22 closer to the original case because they are already built.

23 So the mitigating measure was to add screening.
24 Mr. Poozesh is concerned about whether these screens will
25 actually be put up. And then if they are, will stay up? Is

1 this owner going to comply now? Why is this time different?
2 And is he going to really enforce the role of his tenants if
3 the tenants take down the screen? Is this going to create
4 an FAR issue where DOB will think these are closed in? Will
5 this fall through the cracks essentially.

6 Somewhere to the legal construction, which had to
7 be brought DOB's attention, it is really going to be up to
8 Mr. Poozesh to make sure that the only mitigation against
9 privacy for its tenants is enforced. It is a really tough
10 position to be in.

11 So I ask the Board to consider the impacts on
12 light and air and how the applicant's action and the fact
13 that this is an after the fact approval has impacted the
14 typical process for being able to adequately address neighbor
15 concerns.

16 And I also ask the Board to consider the efficacy
17 of the privacy mitigation, the screens, given the track
18 record here. And then even with these screens, I ask the
19 Board to consider the privacy impacts given these balconies
20 are only 4 or 5 feet from existing bedroom windows in these
21 non-existing residential units.

22 Mr. Poozesh's BZA-approved addition has not been
23 built yet. So the impacts discussed are on the existing
24 improvements and are not being exasperated by our BZA
25 approval, if that helps.

1 So for all these reasons stated, we are continuing
2 to oppose the case. And we appreciate the Board's time.
3 Thank you.

4 CHAIRPERSON HILL: Okay. Does the Board have any
5 questions for the party in opposition?

6 VICE CHAIRPERSON JOHN: So Ms. Wilson, I remember
7 hearing this case. And I didn't have an opportunity to go
8 back and review the record. But I do recall a lengthy
9 discussion about the windows on your client's property.

10 And so I was sort of astounded to see the current
11 file. So I guess thank you for refreshing my recollection
12 on that particular issue.

13 That's the only comment I have, Mr. Chairman.

14 CHAIRPERSON HILL: Okay. Thanks. Let's see.
15 Okay. Anyone else real quick before I turn to the Office of
16 Planning? And then I will let everybody ask any questions
17 that they have, if you all got any questions of each other.

18 Can I have the Office of Planning?

19 MS. MYERS: Good afternoon. Crystal Myers with
20 the Office of Planning. In our supplemental report, the
21 Office of Planning recommends support of this case. It is
22 for lot seeking rear yard relief. And so we were in support
23 with the mitigation measures that the applicant has made, the
24 screening and the removal of the second floor balcony.

25 I will also note that in our report we had said

1 that the relief is for the first and second floors. I want
2 to make a correction. It should be for the second, third and
3 fourth floors. But otherwise with that, I will stand on the
4 record of the staff report and of course here for questions.
5 Thank you.

6 CHAIRPERSON HILL: Okay. Give me a second. I'm
7 sorry. Ms. Myers, what did you say was -- it's actually for
8 the what floors again?

9 MS. MYERS: In the beginning of the supplemental
10 report, our report notes that the special exception relief
11 is for the first and second floors and that's a mistake. It
12 should say second, third and fourth floors. But that's the
13 only correction I was discussing.

14 CHAIRPERSON HILL: Okay. Thanks. Before I get
15 to my questions, Mr. Brown, do you have any questions for the
16 party in opposition?

17 MR. BROWN: I do not.

18 CHAIRPERSON HILL: Ms. Wilson, do you have any
19 questions for the party in opposition? Mr. Brown, do you
20 have any questions for the Office of Planning?

21 MR. BROWN: I do not.

22 CHAIRPERSON HILL: Ms. Wilson, do you have any
23 questions for the Office of Planning?

24 MS. WILSON: No, thank you.

25 CHAIRPERSON HILL: Mr. Young, is there anyone here

1 wishing to speak?

2 MR. YOUNG: We do not.

3 CHAIRPERSON HILL: Okay. All right. Okay. So,
4 Ms. Wilson, maybe you can help me remember. So your client
5 applied for relief for that property?

6 MS. WILSON: Yes. So the applicant in this case
7 had their case first, their original BZA case. And then we
8 applied for relief and it goes back --

9 (Simultaneous speaking.)

10 CHAIRPERSON HILL: Right. It's 1709.

11 MS. WILSON: Yes, yes.

12 CHAIRPERSON HILL: You applied for some relief for
13 property 1709.

14 MS. WILSON: Correct.

15 CHAIRPERSON HILL: What relief did you apply for?

16 MS. WILSON: We applied for rear yard relief for
17 -- technically, it's two stories. But it was like -- it was
18 a two-story addition in the back, filling it in. It hasn't
19 been constructed yet.

20 CHAIRPERSON HILL: Do you know the number of that
21 case?

22 MS. WILSON: I can find it.

23 MR. BROWN: 20603, I believe, Chairman Hill.

24 MS. WILSON: Thank you, yes. And so in that case,
25 the applicant in this case opposed it, saying the addition

1 was going to impact these balconies. And then that's when --
2 at least as I recall that's when this was --

3 CHAIRPERSON HILL: Did that get approved?

4 MS. WILSON: It did. It's not constructed yet.
5 And we're not suggesting that the requested relief is
6 impacting that addition, just impacting the existing
7 residential windows.

8 CHAIRPERSON HILL: Even though this current party
9 was in opposition -- and I'm sorry, I'm going to ask all the
10 questions from the lawyers. But did you get what you want?
11 Did your client get what they wanted?

12 MS. WILSON: Yes, after some party opposition, we
13 did.

14 CHAIRPERSON HILL: Okay. And how did those plans
15 change the way that -- I'm just trying to understand what's
16 going to be built supposedly and what's built now?

17 MS. WILSON: Sure. Our addition is not built now.
18 So if you go to, I think, the shadow studies you can see
19 what's being impacted. And I think they show our building
20 on the original --

21 (Simultaneous speaking.)

22 CHAIRPERSON HILL: Yeah. The shadow studies
23 aren't what's being built, I think.

24 MS. WILSON: Right. And that's -- I mean, I think
25 adding in what's being built can complicate this, if that

1 makes sense. We're not suggesting --

2 CHAIRPERSON HILL: That's all right. I was just
3 curious.

4 (Simultaneous speaking.)

5 MS. WILSON: Yeah. That's all.

6 CHAIRPERSON HILL: I understand.

7 MS. WILSON: I just want to be clear on what our
8 argument was.

9 CHAIRPERSON HILL: I understand what you guys are
10 arguing. I'm just going with my own curiosity, and I've been
11 able to pull the file so.

12 MR. BROWN: Chairman Hill, could I suggest if you
13 bring up Slide 17 from our presentation?

14 CHAIRPERSON HILL: Sure. Mr. Young, can you pull
15 up Slide 17?

16 MS. WILSON: There's also photos. Yeah, photos
17 would probably be the best if that's the photo or, yeah.

18 CHAIRPERSON HILL: 17 does seem to add on.

19 MS. WILSON: Why don't we go to the photos?

20 MR. BROWN: Oh, the section, the building section?
21 If you look on the far left, that's what 1709 has been
22 approved to build and its relationship to our rear balconies.
23 So the lower one on the second floor gets filled in. If we
24 have the height correct, there's been some discrepancies
25 between what was filed and what was shown, but it's fairly

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1 close within a foot or two. And then the third floor balcony
2 gets closed in a little bit. So it's filled in that whole
3 area, behind the building.

4 CHAIRPERSON HILL: Okay. I think there's actually
5 some -- what's it called -- merit to what I'm trying to
6 figure out.

7 Okay. So you can drop that, Mr. Young. So, Ms.
8 Wilson, is your client still planning on still building what
9 they were approved to build?

10 MS. WILSON: I'm not sure at this point. We don't
11 have -- I think we're still in permitting or going to do a
12 revision. So it's not 100 percent at this point.

13 CHAIRPERSON HILL: Okay. But they still plan on
14 moving forward with something hopefully?

15 MS. WILSON: Hopefully. I mean, it could depend
16 on the outcome in this case.

17 CHAIRPERSON HILL: Yeah, yeah, yeah. I mean,
18 well, it's not -- anyway. So you guys have been talking to
19 each other for a while. And Mr. Brown, I just let you know.
20 I am a little uncomfortable with what happened. I mean, by
21 the way -- what's your client's name again, Mr. Brown?

22 MR. BROWN: Marwick Associates. Yeah, the Marwick
23 Associates is the corporate name. John Sisk is here
24 testifying.

25 CHAIRPERSON HILL: Okay. Mr. Sisk, I don't live

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1 very far from the building. It's a lovely building. I can't
2 wait for when it may get done. You did lovely stuff to it.
3 I know what it used to be before. And so, like, you know,
4 it's got a lot of history to it.

5 I'm just saying, like, right now, like, I'm just
6 trying to figure out what you guys did and how we can maybe
7 see how this gets kind of like resolved. Like, I mean, and
8 I said all that, which is to say, Ms. Wilson, does your
9 client -- you guys have talked. There is nothing that you
10 guys were able to figure out yet, correct?

11 MS. WILSON: As of yet, no, nothing.

12 CHAIRPERSON HILL: So what's the sticking point
13 because I'm just now curious. Because you've got a project
14 that you want to do. They've got a project that's already
15 up. What is it that's been a ticking point for you guys?

16 MS. WILSON: The fact that there's not an ability
17 to meaningfully negotiate a reduction of the balconies. And
18 they do have an impact on privacy, especially given that they
19 are only 4 feet from --

20 CHAIRPERSON HILL: Yeah, I don't disagree with the
21 privacy issue. That's what I'm kind of getting hung up on
22 and that what we did approve is not what got built. So I'm
23 also kind of confused. And I'm just trying to figure out
24 where we are going from here. And you want -- your client
25 wants them to remove the balconies?

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1 MS. WILSON: I think even a reduction would be a
2 good starting point, just a reduction of the balconies could
3 be a good starting point. But it didn't seem like there was
4 an ability to meaningfully negotiate that. They are already
5 constructed.

6 CHAIRPERSON HILL: Well, I mean, if they don't get
7 approved, they will get torn down. So, okay. Okay. I don't
8 know where I am with this. So I'm going to let my fellow
9 Board members start asking their questions.

10 I mean, Ms. Wilson, I will ask one more last
11 question. A reduction of the balconies, what, like a couple
12 of feet or something? I also don't understand.

13 MS. WILSON: Just reduce the impacts on shade and,
14 yeah, a couple of feet, a few feet, might make a difference.
15 We would have to see the shadow studies.

16 But in terms of privacy, I do think it would make
17 a difference, especially if our addition is built, then there
18 is absolutely no access between the balconies and then the
19 roof of the addition. But that's separate so, yeah, we would
20 --

21 MR. BROWN: Can I respond?

22 CHAIRPERSON HILL: Just give me a second, Mr.
23 Brown.

24 VICE CHAIRPERSON JOHN: Just give us a second.

25 CHAIRPERSON HILL: Go ahead, Vice Chair John.

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1 VICE CHAIRPERSON JOHN: Your addition was just two
2 stories, right?

3 MS. WILSON: Correct.

4 VICE CHAIRPERSON JOHN: And as I recall, there
5 would be no impact to the third and fourth floor, right?
6 There is no third and -- I remember this -- this discussion
7 is coming back to me now.

8 So you are -- I think there is a photograph that
9 shows where the addition, the height of the addition, at 1709
10 17th Street would be. And as I understand from the Office
11 of Planning, they need approval for all first, second, third
12 and fourth floor. And they are only now proposing to close
13 in the first and the second floor. Okay. I think I
14 understand what's happening, Mr. Chairman.

15 CHAIRPERSON HILL: I'm glad that you do. Okay.
16 The -- I mean, I'll even have an emergency meeting, but I
17 don't even know what I want to try to understand. But I
18 guess it's not worth it.

19 So do you all got any questions because I don't
20 know where I am. And so I don't even know what I need, if
21 anything. Do you all need stuff?

22 VICE CHAIRPERSON JOHN: I could ask one more thing
23 about the plat at Exhibit 2. Can you please pull it up, Mr.
24 Young?

25 CHAIRPERSON HILL: Exhibit 2, Mr. Young. Sorry.

1 MR. YOUNG: From the original application?

2 CHAIRPERSON HILL: I think just -- yeah, from the
3 original -- it's just a plat.

4 VICE CHAIRPERSON JOHN: Yeah. There's a notation,
5 if you could enlarge that notation. I don't know if I
6 misread it. Yes, it says balcony addition at second, third
7 and fourth floor. And as I understand it, you are proposing
8 to close the balcony on the second floor. Is that --

9 MR. BROWN: That's correct.

10 VICE CHAIRPERSON JOHN: Okay. So this plat would
11 have to be corrected, right? Because you're mitigating the
12 issue by closing in the balcony on the second floor so the
13 notation should say balcony addition on the third and fourth
14 floors if that's what you intend to have if the Board
15 approves your application.

16 MR. BROWN: We could certainly do that. From a
17 zoning relief standpoint, it doesn't change. But we could
18 certainly make that clarification.

19 VICE CHAIRPERSON JOHN: Well, this matter. This
20 is critical because you will not have a second floor balcony.
21 This is part of the whole problem

22 MR. BROWN: Well, I am hoping that when we are
23 approved, we will be approved subject to not this plat, but
24 the plan.

25 VICE CHAIRPERSON JOHN: So the two things have to

1 match. This hasn't yet met --

2 MR. BROWN: Well, we can --

3 VICE CHAIRPERSON JOHN: This has to be amended.

4 MR. BROWN: Well, Vice Chairman, we can certainly
5 make that change. That's easy to do. That's easy to do.
6 We're happy to do that.

7 VICE CHAIRPERSON JOHN: Thank you.

8 MR. BROWN: While we have this drawing up, could
9 I make the point that the balconies, the area outside the
10 building facade in that enclosed area, those balconies are
11 only about 4 feet wide so that a reduction in the balcony,
12 if at all possible, you know, produces a kind of meaningless
13 space. A 2 foot balcony is -- it really isn't all that
14 worthwhile. I just put that in context out there.

15 The other point I would make is the two
16 properties, 1709 and 1641, our goal is they work and
17 peacefully coexist. And I think what we have offered does
18 that to the best of our ability and also takes into account
19 some flexibility for 1709. And I pointed out in my
20 discussion that they are now showing what appears to be a
21 roof deck area on top of their addition surrounded by
22 railings for safety purposes and one or two doorways onto
23 that deck.

24 I have no objection to that. But that also
25 creates a reciprocal privacy and security issue. And what

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1 we proposed, I think is -- accepts their plan and provides
2 reciprocal privacy and security --

3 (Simultaneous speaking.)

4 CHAIRPERSON HILL: Let me interrupt you one
5 second, Mr. Brown. So, Mr. Brown, I got a text from
6 somebody. It says somebody wants to have an emergency
7 meeting. So I am interested in an emergency meeting. So
8 we're going to go ahead and have an emergency meeting.

9 Mr. Brown, I mean, like, these are old properties.
10 These properties have been around a long time, both your
11 client's property and the other party in opposition's
12 property. I wish you all would work this out. I wish you
13 all weren't even here. Okay?

14 And so, like, I don't know why you all didn't work
15 this out before, but now you're with us. Okay? I do have
16 a problem with what you did because it is farther -- I mean,
17 it was fine the way it was. And now you all built something
18 else that I think is close to the other building. So I don't
19 know why all didn't work this out before you got to us. But
20 you all did it, and now something is going to happen. And
21 I don't really know what's going to happen.

22 So we're going to go have an emergency closed
23 meeting. Okay? And I'm going to read the thing that I'm
24 supposed to read. And it is, I, Fred Hill, Chairman of the
25 Board of Zoning Adjustment for the District of Columbia, in

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1 a recording of the closed Board of the Zoning -- wait a
2 minute. That's the wrong one.

3 Great. As chairperson of the Board of Adjustment
4 for the District of Columbia and in accordance with 407 of
5 the District of Columbia Administrative Procedures Act, I
6 move that the Board of Zoning Adjustment hold a closed
7 meeting on 7/31/2024 for the purposes of seeking legal
8 counsel on a case but not deliberating on a case number
9 21132. Is there a second, Ms. John?

10 VICE CHAIRPERSON JOHN: Second.

11 CHAIRPERSON HILL: The motion was made and
12 seconded, Madam Secretary, if you could please take a roll
13 call vote.

14 MS. MEHLERT: The chair's motion to call an
15 emergency closed meeting. Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MS. MEHLERT: Vice Chair John?

18 VICE CHAIRPERSON JOHN: Yes.

19 MS. MEHLERT: Board Member Blake?

20 MEMBER BLAKE: Yes.

21 MS. MEHLERT: And Vice Chair Miller?

22 MR. MILLER: Yes.

23 MS. MEHLERT: The motion passes 4-0-1.

24 CHAIRPERSON HILL: Thank you. As it appears this
25 motion has passed, I hereby give notice that the Board of

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1 Zoning Adjustment will recess this proceeding at 7/31/2024
2 at 1:03 p.m. to hold a closed emergency meeting pursuant to
3 the District of Columbia Administrative Procedures Act. A
4 written copy of this notice will be posted in the Jerrily R.
5 Kress Memorial Room.

6 Okay, guys. We're going to go jump into another
7 room. We'll come back. Thank you.

8 (Whereupon, the above-entitled matter went off the
9 record at 1:04 p.m. and resumed at 1:35 p.m.)

10 CHAIRPERSON HILL: All right. Let's see. Oh
11 there we go. Ms. Myers, I wish you, and everybody else, you
12 have a nice August.

13 MS. MYERS: Thank you. I hope the Board members
14 -- you and the rest of the Board -- have a good summer as
15 well, or at least August.

16 CHAIRPERSON HILL: Ms. Brown and Ms. Wilson, I
17 think we're going to ask some things of you all. And so, Mr.
18 Brown, what we would like to see is something easy to look
19 at which shows what was approved versus what is there and the
20 plans.

21 And also like -- I was able to find something in
22 the old 20042 that actually had even the layouts, right? So
23 please provide what was approved versus what is there,
24 including what is there now with the interior layout. Okay?

25 Then Ms. Wilson, if you would please provide us

1 what was approved over in 1709 in your client's versus what
2 is there now, including the interior layout. I am just
3 trying to compare apples to apples, right? I mean, currently
4 you've got something that wasn't approved and something that
5 is there that hasn't been built.

6 And I agree that I don't necessarily know if your
7 client is going to build that thing or not. Like who knows
8 how financing works, whatever, right? So the Board can
9 figure out how all this is going to shake out. And so those
10 are the things that I think the Board was interested in
11 finding, seeing.

12 As well, Mr. Brown, if you could find the updated
13 plat that Ms. John had mentioned before. And then we are
14 going to have a continued hearing to see what the Board
15 thinks. And then at that point, I guess we can let you have
16 -- Mr. Brown, unless I forget, a rebuttal and a conclusion.

17 I'm looking at my fellow Board members, did I
18 forget something that you all wanted from the applicants?
19 Okay.

20 So, Mr. Brown, do you understand?

21 MR. BROWN: I do.

22 CHAIRPERSON HILL: Okay. Ms. Wilson, do you
23 understand?

24 Okay. And the easier you make it for the Board
25 to understand what's there versus what was proposed and vice

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1 versa, the easier the Board will be able to understand
2 whether or not we should grant this relief.

3 And for, me, again, it's a privacy issue is what
4 I'm having more issues with as well as the fact that this was
5 built beyond the scope.

6 Okay. Do my fellow Board members have anything
7 they would like to say. If so, please raise your hand? Vice
8 Chair Miller? You're on mute, Vice Chair Miller.

9 MR. MILLER: So I think what you've requested is
10 what would be helpful to us. To the extent that what you
11 provide can show illustrative perspectives or renderings of
12 what it actually looks like from each property might be
13 helpful -- would also be helpful to the extent you can
14 provide illustrative renderings or perspectives that shows
15 the differences.

16 CHAIRPERSON HILL: And the last thing, Mr. Brown,
17 as I kind of think of it, if you could provide some kind of
18 a way for us to see what it looks like from the alley meaning
19 what you guys have already built, right? How it looks from
20 the alley, right?

21 And I guess you can even show me how it looks from
22 the alley with what is there now versus what is proposed over
23 to 1709. That's the only other thing that I get from a
24 zoning perspective wherein -- otherwise this thing is
25 completely landlocked, right? You can't see anything, right?

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1 So, okay, that's it. Ms. Mehlert, if you can tell
2 me when and how we can get back here again?

3 MS. MEHLERT: Sure. So as you know, it's a pretty
4 busy September. So, you know, it's up to you but the next
5 best day would probably be starting October 23.

6 CHAIRPERSON HILL: October 23 was kind of open,
7 right?

8 MS. MEHLERT: Yeah.

9 CHAIRPERSON HILL: So we'll come back on October
10 23. I don't think we'll need anything from the ANC. If the
11 Office of Planning would like to give a supplemental, they
12 can. I don't know if it necessarily is needed. But I guess
13 then should we get information from them, Ms. Mehlert, so
14 that if the Office of Planning wanted to give a supplemental
15 they could.

16 MS. MEHLERT: So if the parties, the applicant and
17 party in opposition, could submit their information by
18 October 9 then the Office of Planning could submit a
19 supplemental by October 16 and then you would have the
20 continued hearing on the 23rd.

21 CHAIRPERSON HILL: Does that work for the Office
22 of Planning if you all wanted to -- okay. I got a thumbs up
23 from the Office of Planning.

24 MR. BROWN: Just to clarify, Chairman Hill,
25 simultaneously we file on October 9, both parties?

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1 CHAIRPERSON HILL: Sounds good to me.

2 MR. BROWN: All right. And then can we take the
3 posting down? We've kept it in place for now.

4 CHAIRPERSON HILL: I don't know. Don't you now
5 have to repost for when the continued hearing is going to be.
6 That I don't know.

7 MR. BROWN: Well, we did that last time.

8 CHAIRPERSON HILL: Well, I'm just saying now we're
9 going to have a continued hearing on October 23. I don't
10 know. I don't know. Ms. Mehlert, I don't know.

11 MS. MEHLERT: Well, I don't believe it really
12 speaks to this in the regulations, but we usually recommend
13 applicants keep the posting up through the hearing, through
14 the final, like, through the Board's decision.

15 MR. BROWN: We'll update the posting for the
16 continued date.

17 CHAIRPERSON HILL: Okay. Great. Okay. All
18 right. Yeah, that's about it. It is a little complicated.
19 But you all have got, you know, some stuff to kind of talk
20 amongst yourselves or the client as well as the party in
21 opposition.

22 I say that in that I think that I can kind of
23 speak for the Board in that I think there is a level of
24 frustration as to what actually got built versus what was
25 proposed. And I think that that is something that the Board

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1 takes very seriously and is trying to struggle with as well
2 as I will say that, like, you know, there is a landlocked
3 party in opposition to your left. If you all can kind of
4 work something out, I don't see how -- that would also be
5 helpful. But you all can figure that out amongst yourself
6 between now and then.

7 And I know that there is a lot of complicating
8 factors on either side, on both sides. I don't think one
9 side is one way or another side is the other way.

10 Okay. Does anybody have anything they would like
11 to say before I close this portion of the hearing. Okay.
12 You guys have a nice August.

13 MR. BROWN: Great. Enjoy your August. Take care.

14 CHAIRPERSON HILL: Thank you. When did I say
15 we're back, oh, 10/23, right? Yeah, 10/23.

16 VICE CHAIRPERSON JOHN: Have a great holiday, all.

17 CHAIRPERSON HILL: Okay. I just want to say thank
18 you to everybody, by the way, the Office of Zoning, the
19 Office of Zoning's legal department and all the people behind
20 the stage that helped us with this. And I really do
21 appreciate it as you all do as well. And you all have a nice
22 August.

23 (Whereupon, the above-entitled matter went off the
24 record at 1:44 p.m.)

25

C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Public Hearing

Before: DC BZA

Date: 07-31-24

Place: teleconference

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate complete record of the
proceedings.



Court Reporter

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